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# Senate

The Senate met at 10 a.m. and was called to order by the Honorable JON TESTER, a Senator from the State of Montana.

## PRAYER

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

Let us pray.

Almighty God, who inhabits eternity, whose throne is in Heaven, whose footstool is Earth, You are worthy to receive our gratitude, worship, and praise. We thank You for Your gracious mercy and forgiveness when we fail and sin. We praise You for Your grace, which is lavished upon us despite our indifference, our pride, and our selfishness. Lord, we worship You, we adore You, we glorify You. We humble ourselves before You. Let Your presence be felt today on Capitol Hill. Inspire our lawmakers to be examples in their words, faith, and purity. May this be a day in which Your love is expressed in their attitudes and actions. You are worthy, Lord God of the universe, world without end. Amen.

## PLEDGE OF ALLEGIANCE

The Honorable JON TESTER 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, September 16, 2008.*

*To the Senate:*

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable JON TESTER, a Senator from the State of Nevada, to perform the duties of the Chair.

ROBERT C. BYRD,
*President pro tempore.*

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

## RECOGNITION OF THE MAJORITY LEADER

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

## THE ECONOMY

Mr. REID. Mr. President, on the morning of October 30, 1929, President Herbert Hoover awoke the day after the biggest one-day stock market crash in American history, surveyed the state of the U.S. economy and declared:

The fundamental business of the country, that is production and distribution of commodities, is on a sound and prosperous basis.

In the coming weeks and months after that, President Hoover remained in an economic bubble, unaware of the extreme suffering of ordinary Americans—even declaring that anyone who questioned the state of the economy was a ''fool.''

For Herbert Hoover, I guess ignorance was bliss. It wasn't until the American people replaced this out-of-touch Republican President with a Democrat, Franklin Delano Roosevelt, that our Nation's economic recovery began. Yesterday, nearly 80 years after the Hoover administration took America with blissful ignorance into a depression, the Dow Jones industrial average dropped 504 points—the biggest one-day decline since trading opened after the attacks of 9/11.

With one major investment bank headed for bankruptcy, and another sold at a bargain-basement price, and one of the world's largest insurance companies teetering, investors rushed to sell their shares, and not only in America but all over the world.

With our financial markets reeling, the American people are wondering whether they will lose their jobs, whether they will be able to pay their child's next tuition bill, and whether their pension and retirement savings will be safe, or even whether their bank will survive.

There is no reason to think we are headed into an economic depression. I believe there is no reason to panic. Yet one Senator—JOHN MCCAIN—woke up yesterday morning, surveyed the state of the U.S. economy, summoned the ghost of his fellow Republican Herbert Hoover, and declared:

The fundamentals of our economy are strong.

For whom are the fundamentals of our economy strong? Certainly not the 606,000 American people who have lost their jobs this year. Certainly it is not strong for the commuters and truckers who are sending more and more of their hard-earned dollars overseas to pay for fuel. Certainly our economy is not strong for those struggling to make one paycheck last until the next, with record home heating prices looming in the coming winter months, and the price of oil teetering around $4 for a gallon of gasoline. It is not strong for the cities and towns that have been forced to cut back on police, schools, and firefighters because their tax base is shrinking. Certainly it is not strong for the millions of families who have or may soon lose their homes, or the tens of millions who are seeing their home equity plummet.

No matter what George Bush, JOHN MCCAIN, or the ghost of Herbert Hoover may think, this economy is not strong, and the American people deserve better.

This is not a time for panic, but it is a time to look back on the past 8 years of the Bush-Hoover-McCain economics and figure out what brought us to this point so we don't repeat the same mistakes.

The tragic truth is this disaster was avoidable. In its palpable disdain for

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

all things relating to government, the Bush-Cheney administration willfully neglected the Government's most important function, which is to safeguard the American people from harm—not only physical harm but economic harm.

In their simplistic philosophy of ''big business equals good, government equals bad,'' the administration and the Republican Congress failed to conduct oversight, and let the financial sector go wild.

Without anyone regulating their actions, market excess destroyed the financial prudence that allowed a firm such as Lehman Brothers to prosper for 158 years.

Vast fortunes were made virtually overnight, and now vast fortunes have been literally lost overnight. Yesterday, we heard that Hewlett-Packard laid off 25,000 people. There is some talk that Lehman Brothers—somebody may buy them, so instead of losing 25,000 jobs, they will only lose 15,000 jobs. I hope that is the case for those 10,000.

The unfortunate irony is that the Bush administration's zeal to favor big business has crippled it and left the American people to pay the price. President Bush did nothing to stop this disaster, and now he will leave the mess to the next President.

Now our Nation must decide who is better suited to end the Bush-Hoover economics and return sanity and security to our economy.

Senator MCCAIN says the economy is not his strong suit. That is an understatement. That is what he said about himself. So JOHN MCCAIN went searching for an economic adviser who could bolster his weakness. Who did he choose? Phil Gramm. I served with Phil Gramm in the Senate—the same Phil Gramm who was responsible for deregulation in the financial services industry that paved the way for much of this crisis to occur. I like Phil Gramm, but I don't like his economics.

A respected economist at the University of Texas, James K. Galver, said that Gramm was: ''the most aggressive advocate of every predatory and rapacious element that the financial sector has'' and that ''he's sorcerer's apprentice of instability and disaster in the financial system.''

It was Phil Gramm who pushed legislation through a Republican Senate that allowed firms such as Enron to avoid regulation and destroy the life savings of its employees, and it was Phil Gramm's legislation that now has Wall Street traders to bid up the price of oil, leaving us to pay the bill.

Warren Buffett called the results of Gramm's legislation ''financial weapons of mass destruction.'' That is what Warren Buffet said.

And now the architect and leading cheerleader for every mistake and neglect that created the Bush-Cheney financial nightmare is whispering into the ear of JOHN MCCAIN, who says he doesn't know much about the economy. I repeat, that is an understatement.

Whether you call it Hoover economics, Bush economics, or McCain economics, it is not a recipe for change; it is a recipe for more of the same.

For all of the college students worried about finding a job, the working families who don't know how they will pay their bills—talking about families and jobs, a man is coming to visit me from Las Vegas. He has two sons who are so brilliant. One of them, a few years ago, was the only person in Nevada to be admitted to Harvard. He had a perfect score in his SAT. He can't find a job. He is a graduate, with honors, from one of our elite ivy league schools and he cannot find a job. His dad is coming to talk to me to see if I can help him. His other boy is still in college and, of course, worried, as I have indicated, about finding a job. Working families don't know how they will pay their bills, and the fixed-income seniors are trying to figure out how to pay for medicine. We have to do better.

We cannot afford another Republican President who will follow his party's ghosts down the path of recession, depression, and more suffering. We desperately need a President who understands that working people, not industry titans, are the backbone of our country and economy.

We need a President who will cut taxes for working people and senior citizens, end the windfall profits of oil companies, and put that money back into the pockets of those who are paying record prices at the pump, and put millions of Americans back to work by investing in jobs on Main Street, not Wall Street.

In November, we can elect a President who will break from the past and invest in the future, a person of change. But until then, the Senate should pass our tax extenders. We need to do that. If we want to jump-start the economy, let's pass the tax extenders for renewable energy. In the State of Montana, the State of the Presiding Officer, renewable energy is a job creator. On August 18 and 19, I had an energy summit in Las Vegas. We had Democrats, Republicans, academics, and people from the industry. I talked to the Governor from Colorado and asked him how his State is doing. He said they are not being hit as hard as others because they are creating thousands of jobs with renewable energy projects. That is what the future holds for us. We need to pass the energy tax extenders. I hope we can work something out with the Republicans to pass other tax extenders for more than 1 year. We have to get away from the 1-year deal. Let's do them for 2 years so that people in the private sector can look at Congress as a friend. I hope we can do that.

I also think we have to take a look at a stimulus package that funds infrastructure projects, creates jobs, prevents cuts in desperately needed State services, invests in renewable energy, expanded unemployment benefits for victims of this administration's economy, and helps working people and senior citizens afford the costs of energy.

I think the House of Representatives will pass the stimulus bill in the coming days. I hope that today they pass the Energy bill. As I indicated to the distinguished Republican leader, we are going to finish this Defense authorization as soon as we can. I hope to get cloture on it this afternoon.

I hope the unanimous-consent request Senator LEVIN will offer around 11 o'clock—whenever we finish morning business—will be accepted. When we finish that, I think there is an agreement between the Republican leader and me that we are going to go to the tax extenders, renewable first. We have to have a vote on AMT. We are going to vote on the other tax extenders. That will be helpful. It sets a great pattern for what we need to do here. I hope the House follows suit and takes care of that business.

We are going to now have a period for morning business, with Senators allowed to speak for up to 10 minutes each, as soon as the Republican leader finishes his statement, if he has one. The Republicans will control the first 30 minutes, and the majority will control the second 30 minutes.

Following morning business, the Senate will resume consideration of S. 3001, the national defense authorization bill. The managers are working through filed amendments to the bill. Senators should be on notice that the chairman has shared a proposed unanimous consent agreement with Republicans and will ask for consent prior to the caucus recess. If we are unable to reach agreement, at 3 p.m. the Senate will proceed to a cloture vote on the bill, with the final 30 minutes equally divided and controlled by the two leaders, with the majority leader controlling the final 15 minutes. Senators have until 12 noon to file second-degree amendments to the Defense bill.

I will finally say that under the regular procedure, we would have a cloture vote an hour after we come into session. But I had a conversation with the Republican leader last evening, and we felt it would be best to wait until after our caucus so people understood how important this Defense authorization bill is and how Senator WARNER and Senator LEVIN have tried hard to work through all these amendments. Hopefully, we can get cloture invoked and work on the amendments that are available postcloture and finish this bill, say, 9:30 tomorrow morning, something like that. I hope that can be the case.

## RESERVATION OF LEADER TIME

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

## MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there

will now be a period for the transaction of morning business for 60 minutes, with Senators permitted to speak therein for up to 10 minutes each, with the time equally divided and controlled by the two leaders or their designees, with the first half of the time under the control of the Republican leader or his designee and the second half of the time under the control of the majority leader or his designee.

The Senator from Missouri.

## ENERGY

Mr. BOND. Mr. President, we have heard a very powerful Presidential campaign speech by my good friend the majority leader. He asked what has brought us to this point. What has brought us to the point that farmers are suffering, families are suffering, truckdrivers are suffering—all of us are suffering from the high prices of energy.

It should be no secret to anybody who knows what is going on around here that for the last 20 years, my colleagues on the other side of the aisle have instituted a policy of ''don't drill, don't refine, don't develop nuclear power.'' Our gas and oil prices have gone through the roof because we have artificially constrained the amount of energy we can produce.

What we are asking for and the American people are asking for every time I go home is some common sense. Impose our good, strong environmental regulations. We have the strongest environmental regulations of any nation on the Earth on producing oil and gas. We can pay high sums of ransom to foreign powers, such as Hugo Chavez in Venezuela or Vladimir Putin in Russia or Ahmadinejad in Iran, and get oil and gas that has not been produced with the same environmental protections we have.

Today, the price of oil is only $92 per barrel. A gallon of gas on Friday, before Hurricane Ike, averaged only $3.65. It has come down some now with the unwinding of the Lehman investments in long-term energy futures. But the problem is still there. We have not solved the problem. We have taken some steps that I believe will give the market some encouragement. But if you think oil at only $92 per barrel is good enough, if you think gas falling to $3.65 a gallon is good enough, then you must be one of these people who support the Pelosi plan, the Gang of 10 proposal. You must be one of those people who think we can get away with giving just a little bit of opening of our tremendous oil reserves and gas reserves.

What I can tell you is that the price of oil falling only a little bit is not good enough for the families of Missouri, the farmers, the small businesses in Missouri, the truckers, all of the people who have been hit hard by the high price of gas. The price for a gallon of gasoline falling only a little bit is not good enough for my workers and families in Missouri or the workers and families in the United States. That is why opening a little bit of new oil production is not good enough for our farmers and workers. Missouri's families and farmers, workers and small businesses, like the entire Nation, deserve as much relief as we can responsibly give them from the high gas prices, and we need to do it now.

The suffering of our families in today's tough times is certainly not over yet. The mortgage crisis brought on by speculation in the housing finance market is still ravaging our neighborhoods. High food prices are still ravaging household budgets. High health care budgets are ravaging lifetime savings. High education costs are still crimping our retirement funds. Missouri farmers are still struggling with the high fuel costs they pay to run their farm equipment. Dairy producers are struggling with the surcharges they pay to ship their milk to markets. Our food processors in Missouri and across the Nation are struggling with high transportation costs to obtain their raw goods. Grocers in Missouri and across the Nation are still struggling with high shipping costs. That is the high cost of the price of food—the off-farm fuel costs that go to transportation, driving, and other procedures. And Missouri truckers are suffering from high diesel costs. Missouri airline workers are losing their jobs because of high jet fuel costs. So why would anyone think that just a little price relief is OK? Why would anyone think we just have to lower gas prices a little bit? Our families don't just deserve a little relief; our families deserve as much gas price relief as we can give them. Our truckers don't deserve just a little relief; they deserve as much diesel relief as we can give them. Our farmers don't deserve just a little relief; our farmers deserve as much fuel price relief as we can give them. That is why we should not open just a little bit of offshore oil production. We should open as much new offshore oil production as we can, have it produced in an environmentally responsible manner to drive oil and gas prices as far down as we possibly can to provide as much relief to families and workers as we can.

The proposal we will consider from the Gang of 10 will not open as much new offshore oil as we can, so it will not drive down oil and gas prices as much as we can. It plans to open a handful of sites in southeast Florida to offshore production, but it leaves closed to the American people east coast and Northeast States. It leaves the entire Pacific coast of America closed. Seventy percent of America's offshore areas, off lower 48 States, would still be closed to the American people and the energy they need under the Gang of 10 plan. Eighty-five percent of offshore areas are currently off limits. So how is opening only 15 percent more in offshore production going to provide relief to the American people?

On the other side, the Speaker's plan does not provide relief to the American people either. It opens certain areas of the east and west coasts of America but does so only outside the 50 miles from shore.

There is a funny little statistic that maybe people would be interested in, and that is that most of the oil off the Pacific west coast is less than 25 miles off the shore. More of it is within 50 miles off the shore. So no more than 3 to 5 percent of the oil off California and the west coast would be opened. It leaves closed to the American people the eastern half of the Gulf of Mexico where almost of all the new oil in the east coast lies.

So the Pelosi plan may well be described as opening everywhere that oil is not and leaving closed and off limits to the needs of the American people everywhere the oil is. The plan will do almost nothing to bring the American people gas price relief.

Let me talk about the Gulf of Mexico. We wish everyone—Texas, Louisiana, across that part of the country—Godspeed in their recovery. We prayed for you during the storm. We now pray for you as you put your lives back together. But we are also putting the Nation's oil infrastructure back together.

Hurricane Alley, as the western Gulf of Mexico is often known, is also the port of entry for 64 percent of our imported oil and most of our refineries. Rolling right down Hurricane Alley, Hurricane Ike has shut down 63 percent of our oil rigs, idled 73 percent of our gas output, closed 8 refineries, and stopped 96 percent of gulf oil output. Mother Nature can only tell us we asked for it by concentrating so much oil production in the western gulf, by concentrating so much oil refining in the western gulf, by forcing so much oil importation through the western gulf.

We have only ourselves to blame when we keep other parts of our ocean closed to production. We only have ourselves to blame when we keep the other parts of our shores closed to refining. We have only ourselves to blame when prices spike 17 cents in a weekend, as they did over this weekend. We have only ourselves to blame if we continue the Democratic policies of ''don't drill, don't refine, don't use nuclear resources.'' And if we vote for proposals that still keep most all of our shores off limits, we will have only ourselves to blame for not providing American families, workers, and small businesses the relief they need. We will have only ourselves to blame if we do not provide American families the relief they deserve.

I urge our colleagues to consider American families when we vote to give them as much energy, gas, oil relief as we can—not just a little bit more relief but a lot more relief, finding not just a little bit of oil production but as much new oil production as

we can. Our American workers, American farmers, American small businesses—all of us in our American economy deserve no less. We must produce what we have, and we must do it now.

Mr. President, I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Colorado.

Mr. ALLARD. Mr. President, I thank the Senator from Missouri for his comments this morning. I, too, wish to make some comments about our energy problems we are having in this country.

Before the August recess, I and many of my Republican colleagues came to the floor of this great body to make the case for a sound national energy policy that would make a difference to the millions of Americans struggling with high energy prices.

We just heard the majority leader mention energy as a critical problem in America. But, unfortunately, instead of dealing with this issue, it was set aside by the majority party in favor of a recess, and like the recess enjoyed by millions of American schoolkids, this recess was an opportunity for the majority party to run away from the hard work waiting for them on their desks on energy.

When or if we move to the energy debate again, I am hopeful we will be able to accomplish something. This is especially important because this will likely be the last opportunity for many months to offer relief to millions of Americans struggling with high fuel prices. It is relief to commuters, school carpoolers, it is relief for farmers, it is relief for small businesses, grocery shoppers, and all across the spectrum of American life where higher prices mean budget problems.

The price of oil has dropped from its summer high, and that is good, but the fundamental truth remains: America does not control its energy sources. Americans rely on overseas energy, and we pay billions and billions for it. We see those dollars go to countries that sponsor terrorism, which creates additional problems for the security of this country.

Our precarious position comes to everyone's realization when we deal with an interruption in energy. My esteemed colleague from Missouri just finished talking about the impact of Hurricane Ike and how it has had an effect, and that is when Americans realize how precarious our energy supplies are in this country.

For weeks now, dating back to before the August recess, Republicans have been pushing and prodding the Democrats in an effort to address this growing crisis. I suspect that during the August recess Democrats got an earful from their constituents on energy. The citizens of this country told them to release areas off the coast for domestic exploration. They told them to open sections of ANWR to tap millions of barrels of our own vital oil and natural gas supplies. I heard those same concerns raised when I was back in my State during the summer.

Mr. President, the American people have spoken, and it is high time the Democratic Congress started to listen. We must open the Outer Continental Shelf for exploration. Unfortunately, Congress has enacted appropriations riders prohibiting the Department of the Interior from conducting activities related to production of oil and natural gas on much of the Outer Continental Shelf every year since 1982. The current congressional moratorium under which we are operating places nearly 86 percent of America's Outer Continental Shelf lands off-limits for exploration. No other country does that. Fortunately, the current moratorium is set to expire at the end of this current fiscal year; that is, September 30 of this year. In July, President Bush lifted the executive moratorium leaving only the congressional appropriations Outer Continental Shelf moratorium standing in the way of increased U.S. energy production. I encourage our Democratic friends to allow the moratorium to lapse. With the high cost of fuel, we must allow American companies to seek out new sources of energy off our coastal regions.

In conjunction with offshore exploration, we must open vital areas of Alaska and the West. Recently, in my home State of Colorado, the Roan Plateau was finally opened to the bidding process, and I am pleased the Bureau of Land Management was able to move forward with the Roan Plateau lease sale. This sale was important for the people of Colorado because it will generate millions of dollars of revenue for our State. But more importantly, Mr. President, the Roan Plateau development is one of the most environmentally conscious plans ever created, representing almost a decade of collaboration between local, State, and Federal officials. Also, more importantly, is what the Roan Plateau lease sale means for people around the Nation. The development of the oil and gas resources on the Roan Plateau will help secure the midrange future energy needs of our Nation.

The development of the Roan Plateau will be conducted in a staged approach in order to minimize wildlife habitat fragmentation, disturbances, and to encourage innovation in reclaiming many of our disturbed areas. The Roan Plateau is an example of how we can strike a balance between energy development and environmental protections.

While additional production of traditional oil sources is vital, we in Congress must continue to provide incentives for implementation of renewable energy and for the infrastructure necessary to support them. Our fossil fuels have become a bridge to better technology and much of what lies in the area of renewable energy. This is a necessary step in balancing our domestic energy portfolio, increasing our Nation's energy security, and advancing our economic prosperity.

The American people deserve an energy policy that calls for funding more domestic energy sources, including oil, natural gas, clean coal, nuclear, as well as renewable resources and new energy efficiency technologies while not forgetting the conservation aspect of our energy problem and doing everything we possibly can to conserve our precious energy supplies. By investing in renewable energy research and development today, we will actually be saving money in future energy costs.

Energy runs the world in which we live, so without affordable, accessible sources of energy we open ourselves to dangers we simply should not allow to happen. I believe renewable energy and energy-efficient technologies help offset fuel imports, create numerous employment opportunities, develop our domestic economy, and enhance and create export opportunities. In addition, renewable energy and energy-efficient technologies provide clean, inexhaustible energy for millions of consumers.

But renewable energy alone is not enough. We still need additional sources of domestic energy. Mr. President, I disagree with my own Governor from the State of Colorado and the points he was making at the majority leader's energy conference in Nevada, where he stated that renewable energy was the main reason we were having many job opportunities and why our economy was doing well in Colorado. There is no doubt that the renewable energy effort in Colorado has created more jobs. It has created some diversity in our economy, and that is good. But it is the oil and gas industry that has provided the revenues for the State of Colorado and will continue to do it for some time. If we push too hard and too quickly to go to renewable energies before that industry has matured, we will create additional economic problems not only for the State of Colorado but for this country.

It is fascinating when one looks at the retirement portfolio for the employees of the State of Colorado. A large percentage of that revenue and that portfolio is coming from oil and gas companies. It is helping provide for the future retirement of employees who have worked for the State of Colorado. So although renewable energy is beginning to play a larger and more important role in the State of Colorado, it is not ready to replace the huge amount of revenue oil and gas is producing for my State.

One of the most promising sources of domestic energy in the Nation is found in my State of Colorado, and that is oil shale. This shale could easily yield 800 billion barrels of oil, which is more than the entire proven reserves of Saudi Arabia. Now, the estimates on the oil shale in Colorado and Utah and Wyoming are estimated up to 2 trillion, but 800 billion seems as though it is the minimum amount that most people believe we can bring to the surface with the new technologies we have in oil shale, which, by the way, is environmentally favorable.

Unfortunately, we can't even begin to move toward assessing this unparalleled resource because Democratic obstructionism has effectively put this resource out of reach. Any Member of Congress who refuses to consider comprehensive solutions that include reducing energy consumption while increasing domestic supplies is ignoring the needs of this country.

I am very hopeful that within the next few weeks we will be able to find a commonsense approach to our energy crisis that addresses the basic economic law of supply and demand. It is simple: If we increase our supply while reducing demand, energy prices will go down. We shouldn't forget that we live in a supply-and-demand economy.

So, Mr. President, I urge the majority leader, and I urge the majority party to quickly get us on the issue of energy and onto reasonable commonsense solutions to move us forward. This country is dependent on our doing the right thing on energy because it is such an essential part of our economy. It builds into all levels of manufacturing, it builds into each individual American's life, and it is a driving factor when we talk about the inflation that is happening right now in our economy.

So, Mr. President, let's move forward. Let's do something about the energy crisis we have in this country, and let's not let the current election year environment in this country disrupt our effort to try to do what is best in making sure we have a safe and secure country and a secure economy.

Mr. President, I yield the floor, and I ask unanimous consent that the remainder of the Republican time be reserved.

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

The Senator from Washington.

## OIL MARKET SPECULATION

Ms. CANTWELL. Mr. President, as I rise to speak this morning, for the first time since April 1, the price of oil has fallen to below $100 a barrel, and that is certainly a welcome relief to many Americans across this country and to businesses who have been devastated by high energy markets.

We shouldn't underestimate the damage that has been caused. Just this past Friday, in my home State of Washington, Alaska Air announced that more than 1,000 people will lose their jobs because of high fuel prices and a slowing economy. Compared to last year, Americans have paid $76 billion more for gasoline in 2008, and I know many people went without vacations, and businesses have cut back on their operations.

Now, we have had various independent reports that have shown that the fluctuation in price from 2007 to 2008 cannot be explained by simple supply-and-demand fundamentals. And we are having a hearing at 2:30 this afternoon in the Energy Committee about excessive speculation and how prices were driven to record highs this summer. But what we need to also realize is the scrutiny Congress has placed on Wall Street along with the promise to have stricter oversight has had an impact; prompting a large volume of capital starting to leave these markets.

It wasn't that long ago when President George Bush was picked up on the Internet at a reception saying ''Wall Street got drunk.'' Now, I don't know if the President really meant to have this publicly captured on the Internet, but it was, and I know afterwards his Press Secretary was quoted as saying:

> Well, you know, I actually haven't spoken to him about this, but I imagine what he meant, as I have heard him describe it before in both public and private, was that Wall Street let themselves get carried away and that they did not understand the risks these newfangled financial instruments would pose to the markets.

And while it is Wall Street that has gotten drunk, it is the American public paying for the hangover.

Today, we are struggling to contain one of the most severe credit crises since the Great Depression, and American families are going to pay dearly for that lack of oversight and regulatory indifference to what have been critical markets for us to oversee. I give credit to Secretary Paulson for his swift action over the last couple of weeks to contain the economic fallout from a reeling Wall Street.

During the past decade, the agencies charged with financial oversight have turned their eye from what has been one of the worst excesses our country has seen. My question for my colleagues today is, when are we going to learn the lessons of history and make sure Congress does its job in the oversight of the regulatory agencies so they do theirs?

In many ways, today's super-bubbles are a repeat of the 1920s when too much borrowing to underwrite too many speculative bets using too much of other people's money set up the entire economy for a crash. In 1999, Congress repealed key parts of the Glass-Steagall Act of 1933. The repeal allowed banks to operate any kind of financial businesses they desired, and it set up a situation where the banks had multiple conflicts of interest.

Several economists and analysts have cited the repeal of this act as a major contributor to the 2007 subprime mortgage crisis.

In fact, Robert Kuttner, cofounder and co-editor of the American Prospect magazine wrote in September 2007:

> Hedge funds, private equity companies, and the subprime mortgage industries have two big things in common. First, each represents financial middlemen unproductively extracting wealth from the real economy. Second, each exploits loopholes in what remains a financial regulation.

But we didn't end our deregulation there.

In 2000 we also deregulated a new and volatile financial derivative that is at the heart of today's housing credit crisis—credit default swaps.

As White House press secretary Dana Perino described it earlier this year, these ''newfangled financial instruments'' that posed a risk to the market actually grew into a $62 trillion industry.

Warren Buffett has called these credit-swaps ''financial weapons of mass destruction.''

The proliferation of these newfangled financial instruments has resulted in huge profits and losses without any physical goods changing hands.

I come to the floor asking my colleagues: when are we going to learn the lessons of the past?

When are we going to realize that the 1929 stock market crash has the same root cause as the recent housing bubble?

Both were financed by dangerously high leveraged borrowing. And after the crash many banks failed—causing a ripple effect that devastated our Nation's economy.

After the 1929 crash, Congress stepped up and changed the banking laws to eliminate some of the abuses that had paved the way for economic disaster.

My question is—we acted after the crisis and Congress did step up and do something. What I want to know is whether we have learned our lesson. Are we going to legislate consumer protections in advance, or only after a bubble bursts?

The savings and loan crisis of the 1980s and 1990s when 747 savings and loan associations went under provides a similar lesson.

Like before, much of this mess can be traced back to the deregulation of the savings and loans which gave these associations many of the capabilities of banks, but failed to bring them under the same regulations.

Congress eliminated regulations designed to prevent lending excesses and minimize failures.

Deregulation allowed lending in distant loan markets on the promise of higher returns, and it also allowed associations to participate in speculative construction activities with builders and developers who had little or no financial stake in the projects.

The ultimate cost of this crisis is estimated to have totaled around $160 billion, with U.S. taxpayers bailing out the institutions to the tune of $125 billion. This, of course, added to our deficit of the early 1990s.

I ask my colleagues: When are we going to learn this lesson?

We have failed to see that oversight and transparency are always critical parts of any functioning market.

We have failed to see that when Congress makes reforms, like the Commodities Futures Modernization Act in 2000, or like the repeal of key portions of the Glass-Steagall Act in 1999, or the deregulation of the energy markets in

the 1990s, they cannot disregard these important fundamentals of transparency and strong Federal oversight authority.

I could go on and on for my colleagues on my own personal experience with the western energy crisis that happened in electricity markets in 2000 and 2001.

We saw that during the electricity deregulation experience which started in the mid 1990s, people argued that electricity was just another commodity. But it is really a very critical element to our economy.

Many experts cautioned that electricity was too vital a part of our economy and way of life to let these markets go without the transparency and oversight that is essential.

We all know the rest of the story. We saw that deregulation set the table for some of Enron's spectacular manipulation schemes of 2000 and 2001 among other bad actors, that caused more than $35 billion in economic loss and cost our nation over 589,000 jobs.

Again, only after the crisis was over, did Congress step in. Only after the crisis did Congress give the Federal Energy Regulatory Commission, and now the FTC, more regulatory authority on energy markets. And once more, Congress illustrated that it prefers to act after the fact.

So I ask my colleagues: When are we going to learn?

When are we going to quit deregulating these critical markets without much thought to the transparency and oversight that is critical for markets to operate and function correctly?

When are we going to learn that when we take our eye off he ball, Wall Street raids the cabinet and, as the President say, Wall Street gets drunk?

I mentioned that later today we will be holding a hearing in the Energy Committee to examine the oil futures market. We will examine why we need meaningful legislation to close the loopholes that exist in those dark markets.

This deregulation has helped spark today's price super-bubble, as George Soros warned at a June 3 Commerce Committee hearing, that is driving our markets to no longer be based on supply-and-demand fundamentals.

In one fell swoop, this deregulation did a number of things that enabled today's perfect storm to brew.

No. 1, we let these newfangled financial instruments called credit default swaps go unregulated, and it made it easy to use bad debt to finance home mortgages.

As George Soros wrote in his book documenting the credit crisis:

At the end of World War II, the financial industry—banks, brokers, other financial institutions—played a very different role in the economy than they do today.

He went on to explain, as I said, that banks and markets are not as strictly regulated today as they were in the past.

In 2000 we deliberately chose not to learn this harsh lesson and allowed these new, volatile financial derivatives that are the heart of today's markets to go unregulated by the Commodity Futures Trading Commission.

What we need to do is make sure we learned this lesson, to go back now and close the loopholes that exist and make sure the agencies that are in charge of oversight actually do their job. We do not want the American people to continue to have to pay for mismanagement and lack of oversight by not having transparency in these markets. We need to make sure these agencies are accountable.

The bottom line is we have a CFTC that is more lax in allowing traders to run amok than protecting families who live on Main Street in America. That is why I continue to hold up CFTC nominations. We need a more sophisticated regulatory regime oversight, including regulators who will be aggressive policemen on the beat. We need to collect more data to make sure that markets are not being manipulated. We need to make sure the market is driven by basic market fundamentals and not greed.

I yield the floor.

I suggest the absence of a quorum.

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

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. WARNER. Would the Presiding Officer advise the Senate of the procedure at this time?

The ACTING PRESIDENT pro tempore. The minority has 2 minutes remaining in morning business.

Mr. WARNER. I yield back the time.

## CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Morning business is closed.

## NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2009

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will resume consideration of S. 3001, which the clerk will report.

The bill clerk read as follows:

A bill (S. 3001) to authorize appropriations for fiscal year 2009 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes.

Pending:

Reid amendment No. 5290, to change the enactment date.

Reid amendment No. 5291 (to amendment No. 5290), of a perfecting nature.

Motion to recommit the bill to the Committee on Armed Services with instructions to report back forthwith, with Reid amendment No. 5292 (to the instructions of the motion to recommit), to change the enactment date.

Reid amendment No. 5293 (to the instructions of the motion to recommit to the bill), of a perfecting nature.

Reid amendment No. 5294 (to amendment No. 5293), of a perfecting nature.

Mr. WARNER. Mr. President, I would like now to address the Senate with regard to my interpretation of the many constructive efforts that have gone on with the chairman and myself and other colleagues to try to move this bill forward. As I speak for a few minutes, I urge my distinguished chairman to engage me in any questions or colloquy if he has views that could be at variance to what I express.

I have an amendment at the desk. It is No. 5569. I shall not call it up at this time. The history of that amendment is as follows:

As many of our Senate colleagues are aware, this past January 29, the President of the United States issued Executive Order No. 13457 instructing the executive branch that agency heads should not base funding decisions on language in a committee report or conference report or any other nonstatutory statement of the views of Congress. The President took this unprecedented step because he believes—and to some extent I share his concern—that it is necessary to reduce the number and cost of what we refer to as earmarks substantially; that is, to reduce them substantially and to make the origin and purpose of the earmark more transparent. To accomplish these objectives, the Executive order requires that henceforth earmarks, as well as any other funding direction from Congress in its exercise of the power of the purse, must be included in the text of the bill voted on by Congress and presented to the President.

In response to the Executive order, I offered an amendment during committee markup, on behalf of Senator MCCAIN and myself and others, which would have put the committee's funding tables in the text of the bill. This was the most simple and direct way to comply with the Executive order. My amendment, after deliberation in committee, was defeated on a 12-to-12 vote. As a result, as reflected in section 1002 of the bill, the committee decided to incorporate our funding tables into the bill by reference; that is, by a provision that states that each funding table in the committee report is incorporated into the act and is made a requirement of law to the same extent as if the funding table was included in the text.

Once our bill reached the Senate floor for consideration by the full Senate, a colleague, Senator DEMINT, filed amendment No. 5405 which, again, takes up the same issue.

Senator DEMINT's amendment would strike section 1002 in its entirety from the bill, thereby removing the funding tables from the bill. The result, as I interpret it, of adoption of the amendment would be that our funding tables would remain only in the committee

and conference report, setting up a conflict with the Executive order. Direction by Congress on the specific funding levels throughout the defense budget would be advisory only.

The President's Executive order, on the other hand, would continue to require agency heads to ignore congressional funding directions unless it is in the text of bills enacted into law.

While I appreciate the efforts by our distinguished colleague from South Carolina and his concern about the use of the incorporation-by-reference technique which I opposed during committee markup, I am just as concerned about striking the reference to the funding tables in the bill and leaving them only in the committee and conference report, given the President's Executive order. While the DeMint amendment would have the positive impact of making earmarks advisory only, it would also undercut the legal authority of every other congressional funding decision which differed from the President's budget. In short, the DeMint amendment would seriously impair the ability of the Senate and Congress to meaningfully exercise the power of the purse. The Armed Services Committee and the Senate and Congress as a whole would lose the ability to direct and enforce cuts in funding, additions to funding that were, in our discretion, required in the President's budget, or to restructure programs that are part of the defense budget.

The amendment I have offered and wish to offer as an alternative to Senator DEMINT is No. 5569. My amendment takes the same approach which I argued during the committee markup. It takes the funding tables from our committee report and puts them directly into the bill text. The amendment is extraordinarily long. It goes on for 225 pages, but it complies with the Executive order in the most direct way possible. As a result, all of our funding decisions are transparent, and each item of funding is subject to further debate and amendment by the full Senate. If the funding decisions are adopted by the Senate and sustained through the conference between the two Houses, they will be included in the text of the bill as passed by Congress and presented to the President. Changes to the funding decisions recommended by the committee are subject to the normal process of amending a bill under the Senate rules and procedures.

I am aware if my amendment was adopted, it would increase the burden of producing our bill and conference report by several days. Many people would be involved in that rather arduous process. We are informed that the best estimate is that about 4 additional days would be required for the committee staff, the Government Printing Office, and supporting House and Senate staff offices to process the detailed data that appears in the funding tables, if they were incorporated into the bill, assuming the Government Printing Office could prioritize its attention and resources on our bill. By ''prioritize,'' I mean what other work from other committees of the Congress, House and Senate, would be before those various administrative sections.

Given the time constraints we face, these 4 additional days add significantly to the challenges of completing a conference between the House and Senate and passing a conference report in both Chambers before the target date for adjournment. While I acknowledge these challenges, I believe my amendment will best comply with the Executive order and its laudatory purposes. We must not simply ignore the Executive order and trust the executive branch to follow congressional funding directions, when the President has emphatically said the Congress must express its direction in the text of bills enacted into law.

When Congress exercises its constitutional power of the purse, it should do so in a transparent, open way subject to full debate and amendment. When Congress speaks on its funding priorities, it should do so decisively, and its pronouncement should have the binding force of law subject only to the President's veto.

The current posture is, this is an important issue. The distinguished chairman and I, together with our staffs, have worked on it. We have recognized the precarious nature of the bill in terms of its ability to be put together, brought to the desk of Senators, and then, subsequently, the conference report, and likewise that being properly put together to comply with this amendment and others. It is a challenge. I have discussed it with the chairman. I guess perhaps being an optimist, I believe if my amendment were adopted, it would reach the result of many colleagues, and we could go forward and do our very best to shorten the time normally in the history of these bills that is used by the conference.

This is our 30th bill. Senator LEVIN is chairman of the conference this year. I would try in every way to support him, if he so desired to try to move, subject to the adoption of this amendment, this bill through the conference. This bill is so important to our country. It is so important to so many Members of our body. We have pending a managers' amendment which Senator LEVIN and our staffs have been working on for the last 4 or 5 days. It is close to 100 amendments which we have reconciled in such a way that, subject to UC, they could be adopted and immediately become a part of the bill prior to any cloture action that will take place as scheduled at 3 o'clock today. That embraces the work and the desires and the objectives of so many Members.

I am not here to fault the fact that a hold or objection is put on a UC to move that package; it is to state the fact. But that objection largely emanates from the issue which I have tried to describe in a very pragmatic and forthright way to help colleagues better understand the current procedural dilemma that faces the body with regard to the bill.

The committee and my distinguished colleagues will work as hard as we can to get this bill through. This is one roadmap; there may be a better one.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Michigan.

Mr. LEVIN. Mr. President, I thank my friend from Virginia for outlining the history of this issue in which we are involved. I am particularly gratified that he now agrees the DeMint amendment will be a significant abdication of legislative power to the executive branch. The reason that would be true is, there would be no reference to the line items we have worked so hard on in law or by reference in law, and that would mean the only thing that would be remaining would be a committee report that has all the work of our committee, not just the earmarks which we have added but also the lines we have added or subtracted to what the President has requested. That is the essential point relative to the DeMint amendment. It would be an absolutely revolutionary change in the powers of the purse, shifting a great deal of that power to the executive branch.

I am delighted the Senator from Virginia has stated it exactly that clearly, or approximately that clearly, so that, hopefully, we can, if not unanimously but on a bipartisan basis defeat the DeMint amendment, if it is offered. Then the question comes up: How can we then incorporate all our effort in committee into the law? There is a lot of problems with doing it, which we pointed out during the committee debate, including the lack of flexibility that this would result in for the President in terms of reprogramming because now every line becomes a program, and that means it would be harder to shift money than it is now because it is easier to shift money within a program through reprogramming than it is between programs. That was an argument which we used in committee. We believe it is true that the executive branch will have less flexibility when it comes to reprogramming if every single line is in law. However, if that is what this body wishes to do—to make it less flexible for the President to offer reprogramming suggestions—that is a problem the executive branch should have, not ours.

Our problem is it would be difficult, if not impossible, to get a conference report—first of all, it is difficult enough to get to conference, but then it would be extremely difficult, if not impossible, to bring a conference report back in the next couple weeks. We have gone through these numbers with the minority. We have a clear assessment by the Government Printing Office that it would add about 4½ days to their work if every single line were made part of the bill rather than being

simply incorporated by reference in the bill, as it now is. We should not take a chance on jeopardizing this bill. This bill is too important to be jeopardized.

The difference between incorporating all these lines by reference in the bill and actually printing them in the bill is either minor, minute or nonexistent legally. What this bill does is incorporate by reference all these lines. They are incorporate into the bill. They are transparent—as transparent as though they were printed in the bill. This green document is no less transparent than this white document. They are both equally transparent. The work of our committee is laid out in the moment in the green document. In this white document, which is the bill, we incorporate by reference in the bill all the line items so they are in the bill, and they can be changed by an amendment which says no money will be spent or less money will be spent for a particular item. It is very readily addressable by the Senate on the floor. The transparency issue is the same. They are both transparent and should be.

So then the question becomes: Is the nonexistent or minute difference between incorporating all these charts in here by law or actually printing them in here, should that risk the passage of this bill? They can be addressed by amendment on the floor of the Senate, even though they are incorporated by reference.

Now, this bill, as my good friend from Virginia says, is too important for us not to pass. We have never not passed an authorization bill, and this should not be the first year, when we have troops in harm's way, when we do not pass a Defense authorization bill. There are hundreds of provisions in here which directly affect the troops and their families. It would be unconscionable for us not to pass a Defense authorization bill. The reason for jeopardizing it simply does not hold water.

So that is the dilemma we are in. If the Warner amendment is adopted, it would seriously jeopardize the chances of being able to pass a bill, even if we can get to conference in the next couple of days. That assessment was made over the weekend in terms of the number of days' delay that would result. That assessment was made by the Government Printing Office. They spent 700 person hours over the weekend at the Government Printing Office to give us this assessment. This is not some casual assessment off the back of an envelope; this is a very serious assessment that was made at huge expense over the weekend in order to give us the most accurate idea as to what the delay would be if we had to print each one of those thousands of lines in the bill itself, instead of incorporating them in the bill by reference. We should not jeopardize the passage of this bill.

That is the only difficulty I now have as a legislator with the Warner amendment. The other difficulty, which we pointed out in committee, has to do with the lack of flexibility that would result to the executive branch in their reprogramming requests. That is a problem the executive branch needs to face, I would think, but as a legislator, what we have to protect is the power of our purse, the power of this Congress to make changes. That is protected in the Warner amendment.

What the Warner amendment does is put at risk this bill, as it may be physically impossible to get to conference, the conference completed, and a conference report back by the end of next week. If we knew there was going to be a lameduck, there would be no problem because we could do this in a lameduck session no matter how much time it took between now and then, but we don't know that there will be a lameduck session.

So the question is whether we are willing to take this risk. I, for one, cannot in good conscience risk the passage of this bill. Although I don't have any problem now with the Warner amendment in terms of its substance, it is what it would result in, in terms of the bill not being able to be adopted as a practical matter.

My problems with the DeMint amendment are very serious and severe. I hope that amendment is not offered, and if it is, I would hope, on a bipartisan basis, it would be rejected by a Senate which has the responsibility to abide by the Constitution of the United States and maintain the power of the purse.

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

Mr. WARNER. Mr. President, I am looking at a memorandum prepared by our staff, and I presume it has been shared with the chairman's staff. We should state to colleagues that what we learned by virtue of a long process that many people were involved in over the weekend is as follows:

In summary, incorporation of the funding tables into the bill would add about 4 days to the process: About a half day for committee staff to prepare the files for the GPO, although much could be done during the conference; 3 days for the GPO to convert the files and proofread them; and about half a day for the committee staff to proofread them when GPO returns the bill in printed form.

Let's sort of chart out a calendar. Today, we are, at the present time, scheduled to have a cloture vote, and if cloture comes about, there is an entirely different scenario, if it is voted in, by which we continue to address the bill. But if by any chance we could reconcile our differences—and we would want Members to know that last night the majority presented to the minority a draft UC that is now being reviewed by my leadership. I am at this moment unable to give the details of what decisions will be made or what options, other than what was presented to us, may be returned back by way of compromise. That is to take place in the coming hours, before 3 o'clock. But there is still the possibility that we could get a UC through that would resolve much of this problem. Then, if we took final passage, say, even late tonight—I mean if we can get the managers' package through, we will have close to 100 amendments in addition to those already handled, and that package is basically equally divided with Republican and Democratic amendments—let's say we have final passage tonight or tomorrow. How does the chairman then plot the timetable by which he used pretty strong language, that this amendment of mine jeopardizes the bill not being passed? Would the chairman give us his basic schedule?

Mr. LEVIN. I thank the Senator. Before I do that, Senator WEBB came to the floor when I assured him he would be able to discuss his amendment, and I am wondering if we could ask unanimous consent that Senator WEBB be recognized as soon as our colloquy is completed and then that Senator COLLINS be recognized after Senator WEBB.

Mr. WARNER. I was not present when either of these Senators appeared. I am being advised by our cloakroom staff that Senator COLLINS came early this morning, at which time the assurance was given to her by someone that she could have 11:30. Now, I don't know quite how to sort this out.

Mr. LEVIN. I wonder if I could inquire of the Senator from Maine how much time she would be using.

Ms. COLLINS. Ten minutes.

Mr. LEVIN. If I could inquire of the Senator from Virginia how much time he would be using.

Mr. WEBB. About 10 minutes.

Mr. LEVIN. If either had said 9 minutes, they would have had a better case.

I wonder if the two Senators whom we referred to could get together and resolve this issue for us as to who would go first and who would go second. Could we ask the two Senators to perhaps help us out on that, and then I would ask that after we talk, if we could have a UC as to that procedure.

In terms of the schedule, assuming we could get the bill passed by tomorrow, which would probably be lucky because there are a number of amendments that are in that unanimous consent agreement that are referred to specifically that have time connected to them—if we could get this bill passed by tomorrow, or cloture invoked, then there is 30 hours of postcloture. We don't know whether that would be used by any of our colleagues. They have a right to do that, and around here, as we know, frequently that 30-hour period is used. If it is not used, we would then have to name conferees, which hopefully would be done fairly quickly. Then the House reviews the Senate bill and determines the committee jurisdiction and names their conferees. That, at a minimum, is

2 to 3 days for the House to do that—to go through that process to see what committees have jurisdiction over the language in our bill, other than the Armed Services Committee. Then the House and the Senate staffs have to match up these provisions for conference. That usually takes 2 days—usually takes 2 days. So if we are lucky, we could start conference 3 to 4 days after passage of this bill, although it usually takes a longer period of time. So if we pass this bill tomorrow, that would take us to the end of the—that would take the House to the end of the week to be ready for conference, if we started conference on Monday. Whatever period the conference takes, even if it took 2 or 3 days, it is the middle of next week. That is before the 4-day period is triggered.

Mr. WARNER. Mr. President, if the Senator will yield, the chairman and I jointly agreed to ask our staffs to begin to preconference this bill. There has been a considerable amount of work done in the form of preconferencing a number of issues.

Mr. LEVIN. There has.

Mr. WARNER. Once the House sees the finality of the Senate bill, I am of the view that the balance can come together fairly swiftly. So I think we have somewhat of a difference of opinion as to the ability of all people of good intention to get together and crunch this time so we can meet the projected deadline of adjournment on the 26th, as I understand it.

Mr. LEVIN. I don't think we have any difference on that, in terms of the ability of people of good faith to get things done.

Mr. WARNER. Yes.

Mr. LEVIN. This assumes maximum crunch, what I specified for the Senator from Virginia. This is an optimistic view of the timetable, where everybody is using 24/7, to the extent that human bodies permit. We don't have any difference in terms of that.

I am wondering if our two friends from Virginia and Maine have resolved who would go first. Could we then allow them to proceed in the order they have agreed upon, and then the Senator from Virginia and I could pick this up after that.

Mr. WARNER. Let's do that. Mr. President, couldn't we just do this informally? Once we ask unanimous consent, we are in a whole new framework of procedures. I think we recognized that, I believe, Senator COLLINS—and my distinguished colleague from Virginia has graciously allowed her to go first, and she would be followed by the Senator from Virginia.

Mr. LEVIN. Mr. President, I ask unanimous consent——

Mr. WARNER. We are back to UC. The word triggers——

Mr. LEVIN. It shouldn't trigger a problem. We use it all day around here. I am simply stating the order for the two Senators to know.

I ask unanimous consent that the Senator from Maine be recognized for 10 minutes, and the Senator from Virginia then be recognized for 10 minutes.

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

The Senator from Maine is recognized.

Ms. COLLINS. Mr. President, I thank my colleagues for finally working this out.

I rise today in strong support of the Fiscal Year 2009 National Defense Authorization Act. Let me begin by thanking the committee's distinguished chairman, Senator LEVIN, for his leadership, and also Senator WARNER, who is taking on double duty, acting as the ranking Republican on the committee in the absence of Senator MCCAIN. I want to take this opportunity to thank the senior Senator from Virginia for his years of service on the committee. He has been a true friend to me and to the members of our committee and the armed services of this Nation, and his guidance, wisdom and, above all, his civility in all matters will be greatly missed. I deeply admire him, and I thank him for his leadership on this bill and on so many other issues.

Mr. WARNER. Mr. President, I humbly thank my distinguished colleague and longtime friend. I am certain she can take my place.

Ms. COLLINS. I thank the Senator.

Mr. President, this legislation will provide essential training, equipment, and support to our troops as they engage in combat overseas and in exercises at home. It also offers an important opportunity for continued debate as to our Nation's strategy in Iraq, especially the cost of reconstruction in Iraq.

I am particularly pleased the legislation we are now debating contains an amendment that Senators BEN NELSON, EVAN BAYH, and I offered to alleviate the burden on the American taxpayers of our operations in Iraq. It is time for the Iraqis to pay more of the costs of securing, rebuilding, and stabilizing their own country. During the Armed Services Committee markup, I joined Senators NELSON and BAYH in authoring the provisions that are in this bill which shift to the Iraqi Government the costs of securing and rebuilding Iraq in order to lift that burden from the shoulders of the American taxpayers.

While our country is struggling with a soaring deficit, the Iraqi Government is awash in oil revenues. The Special Inspector General for Iraq Reconstruction has estimated that Iraq's oil profits will reach $70 billion this year. That is far more than the Government of Iraq anticipated when it established its budget of $47 billion.

Similarly, on August 5, the Government Accountability Office issued a report that provided an in-depth examination of Iraqi revenues, expenditures, and surpluses. This GAO report underscores the need for our amendment requiring the Iraqi Government to assume greater responsibility for its own costs. The report verifies the stronger financial position of the Iraqis due to the unanticipated windfall brought about by record-high oil revenues. According to the GAO, Iraq is likely to receive between $67 billion and $79 billion in revenues from oil sales in 2008 alone—twice the average of revenues between 2005 and 2007. Yet the Iraqis still have not adequately invested in reconstruction efforts in their own country. In fact, they have spent just 28 percent of the $12 billion investment budget.

In addition, the Iraqis had approximately $29 billion in surplus funds that actually went unused during the past 2 years. When Americans are struggling with the high cost of energy, a weakening economy, and a burdensome deficit, there is simply no reason for the American taxpayers to continue paying for the major reconstruction projects, for the salaries, training, and equipping of the Iraqi security forces, or the cost of fuel in a country that has the second largest oil reserves and a burgeoning budget surplus.

Our bipartisan amendment would shift these costs to the Iraqis. Specifically, our amendment prohibits America's tax dollars from being spent on major reconstruction projects in Iraq. It requires the Iraqis to assume the responsibility of paying for the salaries, training, and equipping of Iraq's security forces, including the army, the police, and the Sons of Iraq; it initiates negotiations between our Government and the Iraqi Government on a plan to cover other expenses, such as the fuel used by American forces when they are in-country.

Our proposal was approved unanimously by the Senate Armed Services Committee, and it represents a significant bipartisan change in our policy in Iraq.

The fact is, the American taxpayers cannot wait for the administration to act. We must require this significant reform by changing the law. Asking the Iraqis to take more responsibility for their own security and for the reconstruction of their own country will give them a sense of ownership, and it makes common sense given Iraq's growing budget surplus. That is the purpose of our provision, and I urge my colleagues to support the proposal that we have incorporated into the Defense authorization bill.

The legislation before us also includes a strong commitment to strengthening Navy shipbuilding by including more than $14 billion for shipbuilding programs. It fully supports the Navy's shipbuilding priorities. The declining size of our naval fleet is of great concern to me. This legislation is an important step toward reversing that troubling decline.

The Chief of Naval Operations, Admiral Roughead, has put forth a plan for a 313-ship Navy. It would address longstanding congressional concerns that naval shipbuilding has been inadequately funded. The instability and

inadequacy of previous naval shipbuilding budgets has had a number of troubling effects on our shipbuilding industrial base and has contributed to significant cost growth in the Navy's shipbuilding programs. The 313-ship plan, combined with more robust funding by Congress, will begin to reverse the decline in Navy shipbuilding.

This bill authorizes funding for construction of a third *Zumwalt* class destroyer. The DDG–1000 represents a significant advancement in Navy surface combatant technology.

It is critical that the construction of the first two DDG–1000 destroyers continue on schedule without further delay. It is equally important that Congress provide full funding for the third ship.

The dedicated and highly skilled workers at our Nation's surface combatant shipyards, such as the Bath Iron Works in my great State of Maine, are simply too valuable to jeopardize with any cuts or delays in this program. To date, the Navy has spent more than $11 billion on research, development, detailed design, and advanced procurement for this program. In addition, industry, including not just our shipyards but also a multitude of vendors in over 48 States, has made significant investments in preparation for building this new class of ship. It is critically important in these tight budget times that we not throw away the investment our country has made as the Navy prepares to build the destroyer for the 21st century. That is why I am so concerned that the House version of the Defense authorization bill eliminates funding for the construction of a third ship, and even more troubling, does not provide sufficient funding for the construction of any surface combatant.

Mr. President, as the threats from around the world continue to grow, it is vitally important that the Navy have the best fleet available to counter those threats, keep the sealanes open, and to defend our Nation.

Bath Iron Works and the shipyards of this country are ready to build whatever ships the Navy needs. But it is vitally important that there not be a gap in shipbuilding that jeopardizes our industrial base. I am pleased with the funding provided in this bill. I look forward to resolving this important issue in conference.

Earlier this year, the Navy proposed to truncate the DDG–1000 program after just two ships. In July, after further evaluation, the Navy realized the terrible effect that such a decision would have on the industrial base and on our shipyards, in particular. It would have created a gap in work for Bath Iron Works because of the delays and costs inherent in restarting the DDG–51 line.

It is important to note that Bath Iron Works is prepared to build whatever ships the Navy needs, but that there must be a stable work plan to sustain the industrial base. The best way to achieve that goal, and to take advantage of the billions of dollars already invested in the DDG–1000, is to proceed with the third ship at this time even if the Navy ultimately decides to build more DDG–51s.

The House version of this bill would also require that the next-generation class of amphibious ships be powered by nuclear propulsion systems, even though the shipyard that currently builds those ships does not have either the facilities or certifications required to construct nuclear-powered ships. This provision could dramatically increase the costs of future amphibious force vessels, with some estimates stating it could be as much as $800 million more per ship. This would reduce the overall number of ships that could be built at a time when the Navy is seeking to revitalize and modernize its fleet. It is completely contradictory to the Chief of Naval Operations 313-ship plan.

I am pleased that our Senate bill also includes funding for additional littoral combat ships. While this program has suffered a number of setbacks, the Navy, with the help of Congress, has taken significant steps in order to begin to get this program under control. These ships are important for the Navy in order to counter new, asymmetric threats, and the Navy needs to get these ships to the fleet soon.

I am pleased that the Senate Armed Services Committee also agreed to my request for $25 million in additional funding to continue the modernization program for the DDG–51 *Arleigh Burke* class destroyers. This program provides significant savings to the Navy by applying some of the technology that is being developed for the DDG–1000 destroyer and back fitting the DDG–51, which may reduce the crew size by 30 to 40 sailors.

The Senate's fiscal 2009 Defense authorization bill also includes funding for other defense-related projects that benefit Maine and our national security.

The bill also authorizes $20.6 million for construction of a new drydock support facility at the Portsmouth Naval Shipyard in Kittery, ME. This drydock, and its accompanying support facility, are essential for the shipyard's future work on *Virginia*-class submarines, the Navy's newest attack submarine.

Funding is provided for machine guns and grenade launchers, both of which are manufactured by the highly skilled workers at Saco Defense in Saco, ME.

In addition, the legislation provides $1.5 million to the University of Maine for the continued research and development of modular ballistic tent insert panels. These panels provide crucial protection to servicemembers in temporary dining and housing facilities in mobile forward operating bases in Iraq and Afghanistan.

The bill also authorizes an additional $1.5 million for the University of Maine's work on high temperature sensors that is important to the Air Force. These sensors are capable of sensing physical properties such as temperature, pressure, corrosion and vibration in critical aerospace components.

The legislation also provides $3.5 million for further development of the ripsaw ground vehicle, an innovative unmanned tank-like vehicle, manufactured by Howe and Howe Technologies in North Berwick, ME. This technology will have the ability to provide force security for our troops by taking them directly out of harm's way.

Finally, I am pleased that this bipartisan Defense bill also authorizes a 3.9 percent across-the-board pay increase for servicemembers, half a percent above the President's budget request.

This bill provides the necessary resources to our troops and our Nation and recognizes the enormous contributions made by the State of Maine. The bill provides the necessary funding for our troops, and I offer it my full support.

Mr. WARNER. Mr. President, if I might ask my colleague for 30 seconds. I listened carefully to the Senator's thoughts on the Iraqi funding issue. I commend the Senator for that. We have amendments that address it. In the managers' package are certain amendments that the Senator from Maine put in. That is a very important issue. We owe no less responsibility to the American taxpayers but to assure that every single dollar going into that area at this time is absolutely essential for the purpose of the mission of our troops and otherwise, and that the Iraqi Government be made aware that they are a sovereign government now and such expenses as can be should be borne by that Government.

Ms. COLLINS. I thank the chairman. I agree with his comments. I am delighted with the support he and the chairman have given to this effort. I thank the Senator.

The ACTING PRESIDENT pro tempore. The junior Senator from Virginia is recognized.

Mr. WEBB. Mr. President, I ask unanimous consent to speak for up to 15 minutes on amendment No. 5499.

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

Mr. WEBB. Mr. President, I will begin by associating myself with many of the remarks made by the Senator from Maine. As someone who served as the Secretary of the Navy, along with the senior Senator from Virginia, I have strong feelings about the strength of the Navy and the size of our fleet.

I introduced an amendment on Friday that I would like to urge my colleagues to examine and support. We are in an odd situation in the business of Government at the moment in that the international authority for the United States to be operating in Iraq will expire at the end of this year. The U.N. mandate, through the U.N. Security Council, expires at that time.

Since last November, this administration has been negotiating what is called a Strategic Framework Agreement that is intended to replace the

international authority of that U.N. mandate. Two questions have come up, however, with respect to what the administration is doing. The first is the timeline. This is an agreement that, by all accounts, has not yet been fully negotiated. It is being negotiated by the administration without the participation of the Congress, and there are indications from Iraq that the Iraqi Government negotiators themselves have serious questions that had not been anticipated at the beginning of this process. So we have a potential, with the timeline, that the U.N. mandate will run out at the end of the year and there will not be an agreement in place that authorizes the presence of our forces in Iraq under international law.

The larger question is constitutional. What entity of the Federal Government has the authority to enter the United States into a long-term relationship with another government? Both of these are serious issues. I submit that the conditions under which we will continue to operate in Iraq militarily, diplomatically, economically, and even culturally, are not the sole business of any administration. These questions involve the legal justification under domestic and international law for the United States to operate militarily—and quasi-militarily, by the way, given the hundreds of thousands of independent contractors that are now essentially performing military functions in that country.

There are questions about the process by which the U.S. Government decides upon and enters into long-term relations with another nation—any nation. In that regard, there are serious questions about the very working of the constitutional system of our Government.

This administration has claimed repeatedly since last November that it has the right to negotiate and enter into an agreement that will set the future course of our relations with Iraq without the agreement, the ratification, or even the participation of the Congress.

The administration claims the justification for this authority can be found in the 2002 congressional authorization for the use of force in Iraq or, as a fallback position, the President's inherent authority, at least from the perspective of this administration, as Commander in Chief.

Both of these justifications are patently wrong. The 2002 congressional authorization to use force in Iraq has nothing to do with a negotiation of a government which replaced the Saddam Hussein government which did not exist in October of 2002, as to the future relations culturally, economically, diplomatically, and militarily between our two countries.

On the other hand, we are faced with the reality that the U.N. mandate will expire at the end of this year and that this expiration will terminate the authority under international law under which the United States is operating in Iraq at a time when we have hundreds of thousands of Americans on the ground in that country.

I and several other colleagues have been warning of this serious disconnect for 10 months. Many of us were trying to say last November that apparently the intention of this administration has been to proceed purely with an Executive agreement to drag this out until the Congress was going out of session, as we are about to do, and then to present essentially a fait accompli in the sense that with the expiration of the international mandate from the United Nations at the end of the year, something would have to be done, and that something would be an Executive agreement that to this point the Congress has not even been allowed to examine. We have not been able to see one word of this agreement.

We tried to energize the Congress. We met with all of the appropriate administration officials. There have been hearings. There have been assurances from the administration that they will consult at the appropriate time, as they define it. We have seen nothing. And so we are faced with a situation that is something of a constitutional coup d'etat by this administration.

I say to my colleagues that we all should be very concerned. At risk is a further expansion of the powers of the Presidency, the result of which would be to affirm in many minds that the President—any President—no longer needs the approval of Congress to enter into long-term relations with another country, in effect committing us to obligations that involve our national security, our economic well-being, and our diplomatic posture around the world without the direct involvement of the Congress. This is not what the Constitution intended. It is not in the best interest of the country.

This amendment, which I offered on Friday, is designed to prevent this sort of imbalance from occurring and at the same time it recognizes the realities of the timelines that are now involved with respect to the loss of international authority for our presence in Iraq at the end of this year.

The amendment is a sense of the Congress. On the one hand, it is a sense that we should work with the United Nations to extend the U.N. mandate up to an additional year, giving us some additional international authority for being in Iraq, if needed, taking away the pressure of this timeline that could be used to justify an agreement that the Congress has not had the ability to examine, but also saying that an extension of the U.N. mandate would end at any time where a Strategic Framework Agreement and a Status of Forces Agreement between the United States and Iraq would be mutually agreed upon.

The amendment also makes the point that the Strategic Framework Agreement now being negotiated between the United States and Iraq poses significant, long-term national security implications for this country, and this would be the sense of the Congress. We need to be saying that. The Iraqis need to hear it from the Congress.

The amendment also puts Congress and the administration on record regarding the many assurances that the Bush administration has made to fully consult with the Congress with respect to all the details of the Strategic Framework Agreement and the Status of Forces Agreement and that copies of the full text of these agreements will be provided to the chairmen and ranking minority members of the appropriate committees in the House and the Senate prior to the entry into either of these agreements.

It is important to say that the Strategic Framework Agreement that has been mutually agreed upon by the negotiators from our executive branch and the Iraqi Government officials will cease to have effect unless it is approved by the Congress. This amendment states that within 180 days of the entry into force of that agreement, the Congress would approve it. We are not calling for the full and complicated procedures of a treaty, but we are saying a majority of the Congress should approve any agreement that has been entered into.

On the one hand, this agreement recognizes the realities of where we are in terms of timelines, but on the other it protects the constitutional processes by which we are entering into long-term relations with other countries, whether it is Iraq or any other country around the world.

We need, as a Congress, to preserve this process. It does not operate in a way that would disrupt our operations in Iraq. I urge my colleagues to join me on this amendment and protect the prerogatives of the Congress under the Constitution.

I understand this amendment will be included in the unanimous consent request that will come for a vote later today. I hope my colleagues will support me on it.

Mr. President, I yield the floor.

Mr. WARNER. Mr. President, if I may say, I have been viewing the two drafts of the UCs. Momentarily, I expect the chairman and I will decide how to deal with it. But I assure the Senator that the Webb amendment is in both drafts of UCs.

The ACTING PRESIDENT pro tempore. The Senator from Michigan.

Mr. LEVIN. Mr. President, I commend Senator WEBB for this sense-of-the-Senate resolution. We have the assurance of the administration that they will share the text with the leadership of the Congress and with the chairmen and ranking members of the Senate and House Armed Services Committees and Foreign Relations Committees. But this goes beyond it and takes an essential step beyond that commitment.

We should be involved in this kind of a long-term relationship. I commend

the Senator from Virginia for his drafting of this amendment. It is very careful. I believe, based on the assurance of Senator WARNER, that it will be included in any UC that is propounded. I hope that UC—any UC—can be adopted and that, indeed, it will include the Webb amendment as having the assurance of a vote.

Mr. WEBB. I thank the chairman and the senior Senator from Virginia.

The ACTING PRESIDENT pro tempore. The Senator from Georgia.

Mr. CHAMBLISS. Mr. President, I ask the Chair to notify me when I have reached the 1-minute mark.

Mr. President, I first want to say, as I rise to support the National Defense Authorization Act of 2009 and honor all of our service members and their families who continue to serve and sacrifice for the sake of the country, that I am very appreciative of the leadership of both Chairman LEVIN and Senator WARNER and, obviously, Senator MCCAIN who has been absent some and Senator WARNER has so ably filled in.

Chairman WARNER will always be chairman to me. He has been my dear friend through many years. What a great service to our country this great American has provided in the true Virginia gentleman tradition. He has always been such an asset to this body and such an asset to our men and women in uniform. I thank Senator WARNER for his great service, I thank him for his friendship, and I thank him for what he does every day for our men and women in uniform.

Mr. WARNER. Mr. President, I humbly acknowledge the gracious remarks, and I express my appreciation.

Mr. CHAMBLISS. Mr. President, last week marked the seventh anniversary of the day our country was attacked by terrorists, resulting in the deaths of approximately 3,000 innocent people. Since that day and for the past 7 years, our Nation has devoted itself to winning the global war on terrorism.

It is astonishing how the commitment of our soldiers, airmen, sailors, and marines has inspired the Afghan and Iraqi people to build their own political framework, improve their security and infrastructure, and promote human rights, freedom, and democracy in their respective countries. I am proud to say that our commitment to and investment in the global war on terrorism is now bearing fruits that are leading to a safer and more democratic world.

All of our accomplishments in this area start with our servicemembers and their families who every day face the challenges, sacrifices, and dangers inherent in the profession of arms. Congress is entrusted with providing the necessary resources, policies, and programs for our servicemembers and military departments in order to ensure their success.

This year's National Defense Authorization Act serves as the vehicle to do just that and provides the resources and policies to carry out the missions we ask of our military.

Specifically, the bill provides the following:

An increase of 7,000 soldiers, 5,000 marines, and 3,371 full-time personnel for the Army National Guard and Army Reserve over the 2008 force structure levels; a 3.9-percent pay raise for all military personnel; a total of $125 billion for military personnel to improve allowances, bonuses, permanent change of station moves, and death benefits; reauthorization of over 25 types of bonuses and special pay to promote enlistment and continued military service; more rigorous oversight procedures for military housing privatization projects; and a report to Congress on the implementation of the Yellow Ribbon Reintegration Program.

I also have several amendments to the bill, all of which I understand will be included in a manager's package. I wish to discuss these amendments very briefly.

First, last year, I worked with many of my colleagues to include a provision in the National Defense Authorization bill allowing for members of the Guard and Reserve who deploy in support of a contingency operation to receive their retired pay early based on how much time they deploy. This year, Senator KERRY and I, along with 15 other Senators, have offered an amendment that would make this provision retroactive to include any duty performed after September 11, 2001.

This amendment recognizes a significant sacrifice that members of the Guard and Reserve and their families have made since 9/11 in answering the call of duty. It is only right that their duty and support of the global war on terrorism since September 11 be recognized and included when considering when they should receive retired pay. It is my hope we can keep this provision in conference and included in the final version of the bill.

Also for the Guard and Reserve, I have offered an amendment, cosponsored by my colleague MARK PRYOR from Arkansas, which would provide 180 days of transitional health care for members leaving active duty who agree to affiliate with the Guard and Reserve. An identical provision was sponsored and included in the House bill by my good friend Congressman SANFORD BISHOP from Georgia. This amendment provides a powerful incentive for members leaving active duty to join the Guard and Reserve and could result in several thousand more people entering the Guard and Reserve each and every year.

I ask unanimous consent to have printed in the RECORD a letter of support for this amendment from the Reserve Officers Association.

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

RESERVE OFFICERS ASSOCIATION,
*Washington, DC, September 15, 2008.*

Hon. SAXBY CHAMBLISS,
*Chairman of the Senate Reserve Caucus, Russell Office Building, Washington, DC.*

DEAR SENATOR CHAMBLISS: The Reserve Officers Association, representing 65,000 Reserve Component members, supports Amendment 5356 of the Senate Defense Authorization bill, S. 3001, which grants transitional health care to active duty personnel as they become a member of the armed forces reserve component.

It is important to reduce the barriers that prevent people from joining the National Guard or Reserve. Providing transitional TRICARE health coverage permits serving members and their families to continue with the same coverage they received while on active duty, and allow them time to qualify for TRICARE Reserve Select. Your amendment provides a recruiting incentive that helps the individual, his or her family and the armed forces.

Thank you for your efforts on this key issue, and other support to the military that you have shown in the past. Please feel free to have your staff call ROA's legislative director, Marshall Hanson with any question or issue you would like to discuss.

Sincerely,

DENNIS M. MCCARTHY,
*Lieutenant General USMC (Retired),*
*Executive Director.*

Mr. CHAMBLISS. Mr. President, another amendment I have offered to the bill, along with my colleague from Georgia, Senator ISAKSON, provides a sense of the Senate on the care of wounded warriors. Last year's Defense Authorization bill contained the Wounded Warrior Act which went a long way to helping DOD and Department of Veterans Affairs establish a network of recovery care coordinators who would work to manage and coordinate care for recovering servicemembers. This is a powerful program and stands to make a huge impact in the lives of our wounded warriors. My amendment calls on DOD and the VA to expedite the recruiting, training, and hiring of these personnel, and also to partner with civilian institutions, such as the Medical College of Georgia School of Nursing, to help train these personnel and ensure they have access to the most up-to-date research and skills in order to best serve our wounded warriors.

Two other amendments I will mention briefly are first a sense of the Senate that the Air Force should conduct a robust demonstration of the SYERS system on the Joint STARS aircraft. SYERS would provide an expanded combat identification capability for Joint STARS and the Air Force should fully explore its utility and the possibility of incorporating SYERS on the entire Joint STARS fleet.

Second, I have offered an amendment that would require DOD to report to Congress on the requirement for Non-dual status National Guard technicians. These personnel are often used to backfill deploying Guard personnel, and due to the large number of deployments, we need to look at expanding the number of Non-dual status technicians as a means of ensuring the Guard's home State missions are not neglected.

The National Defense Authorization Act is designed to strengthen our military, provide the required resources to the Department of Defense to carry out the responsibilities our Nation asks of them, and to improve our servicemembers' and their families' quality of life. The proposed legislation and the funding priorities will ensure that our Nation maintains an adept and quality force to defend our country and allow us to continue to be an ambassador for a prosperous and peaceful world. I commend the chairman, the ranking member, and committee staff for their hard work on the bill and their diligence in bringing it to the floor.

Unfortunately, the bill does have several problematic provisions, including an unnecessary limitation on the role of private security contractors and an unnecessary prohibition on trained and qualified personnel conducting lawful interrogations. I hope we can address and resolve these issues in conference in a way that best serves our military personnel and allows them to effectively carry out their responsibilities.

I also hope the Senate can complete action on this very important piece of legislation and proceed to a House-Senate conference and passage of a conference report prior to the end of this month.

I yield the floor.

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

Mrs. FEINSTEIN. I thank the Chair.

(The remarks of Senator FEINSTEIN pertaining to the introduction of S. 3493 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

Mrs. FEINSTEIN. Mr. President, I yield the floor.

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

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

The legislative clerk proceeded to call the roll.

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

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

## RECESS

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate stands in recess until the hour of 2:15 p.m.

Thereupon, the Senate, at 12:34 p.m., recessed until 2:15 p.m. and reassembled when called to order by the Presiding Officer (Mr. CARPER).

## NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2009—Continued

The PRESIDING OFFICER. Who seeks recognition?

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

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

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

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

### THE ECONOMY

Mr. DURBIN. Mr. President, we continue to read today, as we did yesterday, about dramatic changes in the American economy, particularly the problems facing many of our larger financial institutions.

Not that many weeks ago, the Federal Government stepped in when Bear Stearns was in a terrible economic state and took over the responsibility for that company. It was an extraordinary decision because this is a company that we had not regulated as a Federal Government, not one at least in detail. We knew their transactions and balance sheets, but we put the full faith and credit of the American people and our Treasury behind rescuing Bear Stearns.

Then a little over a week ago the decision was made by this administration to do the same for two entities, Government-sponsored entities, Fannie Mae and Freddie Mac. These were the major institutions for housing in America. Between them, some 50 percent of all mortgages were being held. It was understandable that decision was made because the alternative was unthinkable. If Fannie Mae and Freddie Mac should collapse, it would jeopardize not only mortgages and homeowners but also the American economy. It is such a large part, it is understandable that the administration stepped in to make that decision.

Now this week comes a new round. Lehman Brothers, a company in New York which has prospered for many years, now faces bankruptcy, and along with it the question of the future of Merrill Lynch, a major brokerage house which appears to be in line to be acquired by Bank of America.

These are dramatic and unsettling events and a reminder to all of us that the state of the American economy is not as sound and solid as we would like to see it. But those are the events which happened at the highest levels of finance and the highest levels of Wall Street.

All of us representing our constituents—I represent Illinois—have traveled around our States and met with small business men and women, family farmers, and families as well, talking about the situation they face today. They do not make the headlines as Merrill Lynch or Lehman Brothers, but they should because if you go across the board and talk to these working families, these middle-income families, you will find that over the last 7 or 8 years, this country has not been kind to them. Their spending power has been reduced. They continue to work. They are productive workers. America's economy is a productive economy. And yet they have not been rewarded for their work. Their wages have not kept up with the cost of living. They have fallen behind under this Bush administration some $2,000 worth of spending power at a minimum. These are the people who are paying $4.50 per gallon of gasoline trying to figure out how to get back and forth to work and to meet their obligations to their families and friends.

These are folks who are struggling with the cost of groceries and clothing. They are the same ones trying to figure how in the world to put their kids through college so their kids will not end up with student loans that look like their first mortgages.

They are worried also about health care, about the health insurance plans that do not cover as much this year as they did last year. They are worried about the out-of-pocket payments they may have to make. They realize, most of them, they are one diagnosis away from bankruptcy. That is the reality of life in the economy beyond Wall Street.

So when you look across the board at this economy, you realize the fundamental weaknesses of what we face today. Of course, the housing market has been the catalyst for some of the problems we now see. It turned out that the greed of Wall Street, of the overreaching of some companies, led to loans and mortgages which were totally unwise.

Many of those now have resulted in foreclosures, where people are having to leave their homes. Their misfortune is being visited on their neighbors. I recently had an appraisal on my home in Springfield. It is the same home I lived in when I was first elected to Congress many years ago. I have been there a long time. I have to tell you the value of my home has gone down 20 percent.

Why? It is not because we did not keep it up—we do a fairly good job with that—it is because the economy is weak in my hometown of Springfield, IL, and foreclosures nearby have taken their toll on the value of my home. We made all of our mortgage payments, but the value of our home went down 20 percent. That is the reality a lot of people are facing. My story is not one that should bring tears to anybody's eyes; we will get through it. But a lot of folks cannot. They cannot get through this, and that is where we are in the economy today.

How did we reach this point? We reached this point when we adopted a mentality that was dominant in this city for so long that, first, get Government off my back. Government is my enemy. Deregulate.

That was a pretty popular mantra around here 10 or 15 years ago. In fact, a lot of people laughed about it. Even

people such as the venerable wise critic, Rush Limbaugh, said: If we close down the Federal Government no one would even notice.

Well, he was wrong when he said it. He would certainly be wrong today because what has happened to us is a reminder that there is an appropriate and important role that Government needs to play. As strong as our entrepreneurial free market economy is, if it is not subject to oversight and accountability, it can spin out of control.

That is what happened with this subprime mortgage market. Instead of having appropriate oversight and accountability, loans were made which made no sense whatsoever, and eventually that credit operation collapsed leading to the foreclosures we see today.

What we see on Wall Street now with many of these investment banks going under are credit institutions which are not subject to Government regulation. It is like playing ''off the books.'' If a business does that, the IRS comes in and says: You have just violated the law. You are supposed to put everything on the books and report to us.

Well, there is a whole world of credit and finance that is ''off the books'' when it comes to regulation and oversight by the Federal Government. And that is the world that is collapsing. It is an indication to me that when we faced a similar situation 75 years ago, with the Great Depression, that Franklin Roosevelt got it right. He understood that the economic problems in America called for sensible regulation and disclosure and transparency and accountability.

He created agencies which responded to the economy of the day. Regulation, yes, but without that regulation, unfortunately, the market was spinning out of control to the detriment of everyone, not just business owners but workers, farmers, and people who are just trying to get by.

We need to return to a mindset which says there is an appropriate role for Government. There are things which our Government can do which private industry, on its own devices, will not do. That is why we need to be more sensible when it comes to regulation.

Yesterday, the Republican candidate for President, JOHN MCCAIN, said:

Our economy, I think still the fundamentals of our economy are strong.

I would say that Senator MCCAIN does not accurately portray our economy today. I wonder which economy he is talking about? Is he talking about an economy with record unemployment, the highest in 5 years? Is he talking about an economy with record home foreclosures, the most since the Great Depression? Is he talking about an economy where people's savings that they count on for the future—the value of their home or their 401(k) or their retirement account—have been diminished by the state of this economy? He cannot be talking about the economy where middle-income families have fallen behind in their spending power, where they find it difficult to live paycheck to paycheck, let alone save some money. He cannot be talking about an economy with $4.50 gasoline, with diesel fuel that is even more expensive, and jet fuel that is running the aviation industry out of business.

What economy is JOHN MCCAIN talking about? It is interesting how close his quote comes to one from another person who happened to be elected President. His name was Herbert Hoover; the date was October 25, 1929. This was just shortly before, days before, the great stock market crash.

Here is what President Herbert Hoover said then:

The fundamental business of the country, that is production and distribution of commodities, is on a sound and prosperous basis.

That was said days before the stock market collapsed. This quote from JOHN MCCAIN yesterday is reminiscent of President Hoover. It shows the same lack of connection to the real world in which people are living.

When it comes to Senator MCCAIN's philosophy and how we should approach these issues, he has been pretty outspoken. It has been printed this morning in an article in the New York Times written by Jackie Calmes. She wrote:

In early 1995, after Republicans had taken control of Congress, Mr. MCCAIN promoted a moratorium on Federal regulations of all kinds. He was quoted as saying that excessive regulations were ''destroying the American family, the American dream,'' and voters ''want these regulations stopped.'' The moratorium measure was unsuccessful.

He told the Wall Street Journal last March: ''I'm always for less regulation, but I am aware of the view that there is a need for government oversight'' in situations like the subprime lending crisis, the problem that has cascaded through Wall Street this year.

Senator MCCAIN concluded: ''But I am fundamentally a deregulator.''

Later that month Senator MCCAIN gave a speech on the housing crisis in which he called for less regulation saying:

Our financial market approach should include encouraging increased capital in financial institutions by removing regulatory, accounting and tax impediments to raising capital.

Senator MCCAIN has been consistent. He has opposed Government oversight, accountability, and regulation. Now, it can go too far. Do not get me wrong. We have seen it at its worst. But if you do not have a fundamental oversight effort being made by the Government, then consumers and the economy are at the mercy of those who go too far.

Inevitably they will go too far. I can recall the savings and loan crisis, leading to a taxpayers bailout. I now see the problems in the subprime mortgage situation leading to a taxpayers bailout of Fannie Mae and Freddie Mac, Bear Stearns, and maybe others. If we do not keep an eye on their activities and demand accountability, we will end up paying the price.

That is why this election is so fundamental. If we want to continue the economic policies of the Bush-Cheney administration that have led us to this sorry moment, then Senator MCCAIN is clearly the person who should lead this country for the next 4 years. But if we are going to change those policies, if we are going to give middle-income and working families a fighting chance in this economy, if we are going to have a Tax Code written not to reward wealth but to reward work for a change, then we need a change in Washington. We need to have a new approach, not only a new economic and tax policy but the kind of regulation that provides protection from the excesses of the market. Even Senator MCCAIN yesterday referred to the greed on Wall Street. Left unchecked, unfettered, this greed can spin out of control. That is why there is such a fundamental choice facing American families in only 7 weeks.

I ask unanimous consent to have the New York Times article to which I referred printed in the RECORD.

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

[From the New York Times, Sept. 16, 2008]

IN CANDIDATES, 2 APPROACHES TO WALL STREET

(By Jackie Calmes)

WASHINGTON.—The crisis on Wall Street will leave the next president facing tough choices about how best to regulate the financial system, and although neither Senator Barack Obama nor Senator John McCain has yet offered a detailed plan, their records. and the principles they have set out so far suggest they could come at the issue in very different ways.

On the campaign trail on Monday, Mr. McCain, the Republican presidential nominee, struck a populist tone. Speaking in Florida, he said that the economy's underlying fundamentals remained strong but were being threatened ''because of the greed by some based in Wall Street and we have got to fix it.''

But his record on the issue, and the views of those he has always cited as his most influential advisers, suggest that he has never departed in any major way from his party's embrace of deregulation and relying more on market forces than on the government to exert discipline.

While Mr. McCain has cited the need for additional oversight when it comes to specific situations, like the mortgage problems behind the current shocks on Wall Street, he has consistently characterized himself as fundamentally a deregulator and he has no history prior to the presidential campaign of advocating steps to tighten standards on investment firms.

He has often taken his lead on financial issues from two outspoken advocates of free market approaches, former Senator Phil Gramm and Alan Greenspan, the former Federal Reserve chairman. Individuals associated with Merrill Lynch, which sold itself to Bank of America in the market upheaval of the past weekend, have given his presidential campaign $300,000, making them Mr. McCain's largest contributor, collectively.

Mr. Obama sought Monday to attribute the financial upheaval to lax regulation during the Bush years, and in turn to link Mr. McCain to that approach.

''I certainly don't fault Senator McCain for these problems, but I do fault the economic

philosophy he subscribes to,'' Mr. Obama told several hundred people who gathered for an outdoor rally in Grand Junction, CO.

Mr. Obama set out his general approach to financial regulation in March, calling for regulating investment banks, mortgage brokers and hedge funds much as commercial banks are. And he would streamline the overlapping regulatory agencies and create a commission to monitor threats to the financial system and report to the White House and Congress.

On Wall Street's Republican friendly turf, Mr. Obama has outraised Mr. McCain. He has received $9.9 million from individuals associated with the securities and investment industry, $3 million more than Mr. McCain, according to the Center for Responsive Politics, a watchdog group. His advisers include Wall Street heavyweights, including Robert E. Rubin, the former treasury secretary who is now a senior adviser at Citigroup, another firm being buffeted by the financial crisis.

If many voters are fuzzy on the events that over the weekend forced Lehman Brothers Holdings Inc. into bankruptcy and Merrill Lynch & Company. to be swallowed by the Bank of America Corporation, the continuing chaos among the most venerable names in American finance—coming on top of the recent government seizure of mortgage giants Fannie Mae and Freddie Mac and the demise of the Bear Stearns Companies—has stoked their anxiety for the economy, the foremost issue on voters' minds.

So it was that first Mr. Obama and then Mr. McCain rushed out their statements on Monday morning before most Americans had reached their workplaces.

To the extent that travails on Wall Street and Main Street have both corporations and homeowners looking to Washington for a hand, that helps Mr. Obama and his fellow Democrats who see government as a force for good and business regulation as essential. Yet Mr. McCain has sold himself to many voters as an agent for change, despite his party's unpopularity after years of dominating in Washington, and despite his own antiregulation stances of past years.

Mr. McCain was quick on Monday to issue a statement calling for ''major reform'' to ''replace the outdated and ineffective patchwork quilt of regulatory oversight in Washington and bring transparency and accountability to Wall Street.'' Later his campaign unveiled a television advertisement called ''Crisis,'' that began: ''Our economy in crisis. Only proven reformers John McCain and Sarah Palin can fix it. Tougher rules on Wall Street to protect your life savings.''

Mr. McCain's reaction suggests how the pendulum has swung to cast government regulation in a more favorable political light as the economy has suffered additional blows and how he is scrambling to adjust. While he has few footprints on economic issues in more than a quarter century in Congress, Mr. McCain has always been in his party's mainstream on the issue.

In early 1995, after Republicans had taken control of Congress, Mr. McCain promoted a moratorium on federal regulations of all kinds. He was quoted as saying that excessive regulations were ''destroying the American family, the American dream'' and voters ''want these regulations stopped.'' The moratorium measure was unsuccessful.

''I'm always for less regulation,'' he told The Wall Street Journal last March, ''but I am aware of the view that there is a need for government oversight'' in situations like the subprime lending crisis, the problem that has cascaded through Wall Street this year. He concluded, ''but I am fundamentally a deregulator.''

Later that month, he gave a speech on the housing crisis in which he called for less regulation, saying, ''Our financial market approach should include encouraging increased capital in financial institutions by removing regulatory, accounting and tax impediments to raising capital.''

Yet Mr. McCain has at times in the presidential campaign exhibited a less ideological streak. As he did on Monday, he from time to time speaks in populist tones about big corporations and financial institutions and presents himself as a Theodore Roosevelt-style reformer. He supported the Bush administration's decision to seize Fannie Mae and Freddie Mac, the mortgage giants, and he has backed as unavoidable the promise of taxpayer money to help contain the financial crisis.

Other than Mr. Gramm, who as chairman of the Senate Banking Committee before his leaving Congress in 2002 worked to block efforts to tighten financial regulation, Mr. McCain's closest adviser on matters of Wall Street is John Thain, the chief executive of Merrill Lynch, who has raised about $500,000 for Mr. McCain. Unlike Mr. Gramm, Mr. Thain has a reputation as a pragmatic, nonideological, moderate Republican. That the men are Mr. McCain's touchstones is typical of his small and eclectic mix of advisers, making it hard to generalize about how Mr. McCain would act as president.

A prominent McCain supporter, Gov. Tim Pawlenty of Minnesota, signaled how Mr. McCain would try to make his antiregulation record fit the proregulation times that the next president will inherit. Mr. Pawlenty suggested in an interview on Fox News that, given the danger that ''any future administration'' would go too far, Mr. McCain would be the safer bet to protect against ''excessive government intervention or excessive government regulation;''

Mr. Obama also does not have much of a record on financial regulation. As a first-term senator, he has not been around for the major debates of recent years, and his eight years in the Illinois Senate afforded little opportunity to weigh in on the issues.

In March 2007, however, he warned of the coming housing crisis, and a year later in a speech in Manhattan he outlined six principles for overhauling financial regulation.

On Monday, he said the nation was facing ''the most serious financial crisis since the Great Depression,'' and attributed it on the hands-off policies of the Republican White House that, he says, Mr. McCain would continue. Seeking to showcase Mr. Obama's concerns, his campaign said Mr. Obama led a conference call on the crisis early Monday that included Paul A. Volcker, the former chairman of the Federal Reserve; Mr. Rubin; and his successor as treasury secretary, Lawrence H. Summers.

Later, citing Mr. McCain's remarks about the economy's strong fundamentals, he told a Colorado crowd that Mr. McCain ''doesn't get what's happening between the mountain in Sedona where he lives and the corridors of power where he works.''

One reason for both men's sketchy records on financial issues is that neither has been a member of the Senate Banking Committee, which has oversight of the industry and its regulators. Under both parties' leadership, the committee often has been a graveyard for proposals opposed by lobbyists for financial institutions, including Fannie Mae and Freddie Mac, which last week were forced into government conservatorships.

Industry lobbyists' success in killing such regulations meant senators outside the banking panel did not have to take a stand on them.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. Mr. President, before the hour of 2:30, I ask unanimous consent to be recognized for 5 minutes.

The PRESIDING OFFICER. Is there objection?

Mrs. BOXER. I also ask unanimous consent that the Republican leader's time begin 5 minutes after I begin.

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

Mrs. BOXER. Mr. President, I rise to address the Senate not only as a Senator from the largest State in the Union, a State that is experiencing many problems that started with the housing crisis about which we talked a long time ago, before the Fed stepped in and did something, but I also rise as an economics major. I received my degree in economics. My minor was political science. I was a stockbroker a long time ago on Wall Street. I know a little bit about Wall Street, and I know a little bit about the times we are in right now. I worked on Wall Street when John Kennedy was assassinated. It was a horrible time. Confidence was shattered. The stock market actually closed down for a period. Now we are facing a meltdown. The fact is, we are all going to work and hope that it doesn't melt all the way down.

On the day that we learn about Merrill Lynch, which was the gold standard of brokerage houses, and AIG, what I understand is the largest insurance company in America, when we hear about that and about Lehman Brothers, which we also hope can survive in some form via purchase—and certainly we know thousands of people have lost everything—to hear a U.S. Senator—namely, Senator MCCAIN—say the fundamentals of this economy are strong sends cold shivers up and down my spine. To think that anyone would say that, one would have to go back to the days of Herbert Hoover, President of the United States, the day after the market crashed in 1929 and we entered the Great Depression. He said:

> The fundamental business of the country, that is production and distribution of commodities, is on a sound and prosperous basis.

We have Senator MCCAIN memorializing this attitude and these words.

I wish to spend the rest of my time going through the fundamentals of this economy. I will come back and speak later when I have a little more time to expand.

In 1999, the average American family spent $3,261 on cost-of-living expenses; in 2007, $7,585. The average household earned less in 2006 than they did in 2000. Incomes are going down. Expenses are going up—groceries, heating, gas, health care. The fundamentals of our economy are strong? As Senator OBAMA said: What economy? Not this economy. The average household earned less in 2006 than they did in 2000. Job growth during this administration has been the slowest since Herbert Hoover in 1929, the Great Depression. Our economy has lost jobs for 8 straight months; 84,000 jobs were lost last month. The fundamentals of this economy are strong? What?

One in five Americans is unemployed for more than 26 weeks, an increase of

8.2 percent over 2001. Americans living in poverty increased by 5.7 million since 2000, and 37 million Americans live in poverty. The fundamentals of this economy are strong? Spare me.

Existing home sales fell by 22 percent in 2007. President Bush inherited a surplus. We now have an enormous deficit. The debt has increased over $4 trillion since 2001. We are spending $10 billion a month in Iraq. The money is leaving the country. We are not making the investment. The fundamentals of this economy are strong?

Every American, I don't care what party—Republican, Democratic, Independent—should be up in arms about a leader looking at these figures. I have only given a little of the story. Let's get real. The fundamentals of this economy are weak. The people are anxious, and they should be. It is time for change.

I yield the floor.

The PRESIDING OFFICER. The time of the Senator from California has expired. Who seeks recognition?

Under the previous order, the time until 3:06 is equally divided, with the Republican leader controlling the first 15 minutes and the majority leader controlling the last 15 minutes.

Mrs. BOXER. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. KYL. 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, unfortunately, we are in a situation with this bill where we have not been able to reach an agreement on how to proceed. I say this notwithstanding the Herculean efforts by the chairman and the ranking member of the committee. Senator WARNER informed me a moment ago about the negotiations that have been ongoing, literally over the weekend, and yet it appears that notwithstanding their best efforts it has been impossible to find a way to move forward on this bill that encompasses amendments or embodies those amendments in a managers' amendment to the bill such that the Members, at least on our side, would feel comfortable proceeding to close off debate on the bill and bring debate to a close so we could move on with the bill. Unfortunately, I believe we have had two votes so far on this bill. I think one of those was on an amendment I offered, or it was accepted.

In any event, I think they have accepted two amendments, we have had two votes, and I am informed that over the past three Department of Defense authorization bills, we had a rollcall vote average of 21 votes per bill. That is about right for a Defense authorization bill. This is one of the most important bills we have each year. There is a lot of Member interest. The committee has always allowed a robust debate and amendments by Members and, an average, as I said, of 21. We have had two so far. Clearly we are not ready to stop this bill. There is more work to be done. Frequently, amendments are embodied in a managers' amendment, on average, of 192 amendments that were agreed to during the consideration of the last three DOD authorization bills. As I said, this year the majority has accepted but two.

Now, on our side we had hoped we would have a unanimous consent agreement that could be entered into at this point to obviate the necessity of the vote on cloture. It appears now that that will not be the case. So unfortunately we are in a situation where we are clearly not ready to call an end to this bill. There is still a lot more work to be done. The two managers have tried very hard to reach an agreement. That has not been possible to do. Therefore, at least for me—and I don't pretend to speak for everyone on the Republican side—but at least for me, I can't in good conscience vote to close off debate, bring this bill to a close when there are so many outstanding issues that I know Republicans wish to bring to closure. There is one in particular I will mention before I close.

There is this matter of earmarks. What we had resolved to do in the Senate was to say that only legislative language would be sufficient for a so-called earmark to have the force of law. You couldn't put earmarks in report language and then expect the executive branch to adhere to those earmarks when it spent the money appropriated by Congress. Well, once again, we have the specific items of spending that some call earmarks not put in legislative language except by reference. I know both Senator WARNER and Senator DEMINT and some others had proposed amendments to deal with that. I would have liked to have voted on a Senator WARNER amendment to deal with that subject but, apparently, without a unanimous consent agreement, that is not going to be possible. So there are a variety of things that remain to be done. If we vote for cloture on the bill, they are not going to get done.

Therefore, reluctantly, as I said, it will be my position to vote against cloture on this bill.

Mr. REID. Mr. President, has all time of Senator MCCONNELL expired?

The PRESIDING OFFICER. There is 1½ minutes remaining on the Republican side.

The Senator from Virginia is recognized.

Mr. WARNER. Mr. President, this will be one of the most difficult votes that I will have had to cast in my almost 30 years in the Senate. I must say to my dear friend, the chairman of the committee, we have worked together these years and we just made our last efforts in the cloakroom to try and bridge the gap—I respect both sides—bridge the gap. We failed, and now we are confronted with cloture. I then searched my conscience: What do I do? Because I am definitely more than sympathetic, completely in support that the minority has to have certain rights and a certain ability. That is the way this institution is constructed.

I shall vote for cloture for the following reason: I ran a quick mental calculation. It was 63 years ago, in January of 1945, that I joined the U.S. Navy. If I had to point to the one single thing in my some 40 years plus of public service that has meant the most to me personally, it is working with and learning from the men and women of the Armed Forces of the United States. My military career on active duty is of no great consequence, but my learning experience was enormous, and I have tried through these 30 years in the Senate to pay back to this generation and future generations of men and women all the wonderful things, including two GI bills, that were done for me.

So I could not have this, being almost the last vote that I will cast in these 30 years, in any other way than be consistent with my conscience, as I have tried to do the best, and will continue to do the best, on behalf of the men and women of the Armed Forces and their families.

I thank my colleagues.

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

The Democratic leader is recognized.

Mr. REID. Mr. President, I had the opportunity in August to travel to Afghanistan. I always try to find the Nevada troops and I was able to do that because there are a lot of them over there. But I talked to troops—not Nevada troops but American service men and women. I have had the good fortune of being able to go to Iraq and talk to our military in Iraq. To try to explain to them that we are not doing a Defense authorization bill because minority rights aren't protected, I mean what is—what are we doing? This will be the 94th time we voted on cloture this Congress—the 94th time—far breaking any records ever in the history of our great country; more than double.

My friend, the distinguished Senator from Arizona, says they are not ready to end this debate. We have a professional staff. The Republican staff of the Armed Services Committee is as professional as you can get, and that on the Democratic side is as professional as you can get, led by two of America's all-time great Senators: LEVIN and WARNER. I say that without any degree of trying to make them feel good. It is the truth. They are two of the great Senators in the history of our country. They have worked as hard as they could to put together a Defense authorization bill. Now, let's assume we don't do anything to that bill and cloture is invoked and we pass that bill. Wouldn't that be a great time to celebrate here? Because you know what would happen? We would have a conference with the House and work out whatever differences in their bill and our bill.

This is about earmarks? Oh, come on. We have had congressionally mandated spending since we have been a country. Why? Because our Founding Fathers set the country up that way. We have three separate branches of government. We don't have a king. We have a President. He doesn't make all the decisions. Benjamin Franklin and all of those men who met in Philadelphia wanted us to have three separate branches of government and they determined what our duties would be in the Constitution. One of them is to determine the spending. That is our role. That is our obligation. Now, are these two men trying to hide something from the American people, trying to sneak something in to help a military base someplace in America? No. Everything is transparent. This earmark is only one of the issues of the day to give somebody something to talk about, to talk about how bad government is.

During the past 8 years, our Armed Forces—the best trained, the most courageous armed forces the world has ever known—have been stretched to the limit. I don't say this; our military commanders say it. Both civilian and military leaders of our country say we have to help our military. History will remember that during these years, despite tremendous strain, our military accomplished everything asked of them with heroism and success. We have all been to the funerals. I never understood until I went to Afghanistan what Shane Patton went through as a SEAL in Afghanistan. I went to that funeral and I thought why is a SEAL in Afghanistan. There is no water there. He is there doing the things they are trained to do—going after terrorists—and he was killed in the process. It won't be easy to rebuild our Armed Forces. It must be a priority of our next President to give them proper rest, proper training and equipment when they are deployed, and proper physical and mental health care when they return from combat.

Part of my security detail as the majority leader—because people don't like what I do and say, I have had people threaten me. I have had as a part of my security detail a guy by the name of James Proctor. Since I was assistant leader and leader, he has been with me all that time, but it has been interrupted by three tours of duty to Iraq. He is an Army officer. Three tours of duty. He leaves his little family and heads off to Iraq. For James Proctor—to tell him we are not doing a Defense authorization bill because of earmarks or because we didn't have enough time to debate it, it is laughable, and he would laugh. They would all laugh. It is unfair.

So next January 20, I guess, we will see what we can do to move forward, because we have to rebuild our Armed Forces. In the meantime, Congress can begin, I hope, to do something in the interim. We can begin now by passing the Defense authorization bill, a sensible, bipartisan bill that will honor our troops and enhance our national security.

Just a few things: For men and women in uniform, this bill will give almost a 4-percent increase—exactly 3.9 percent increase—a pay raise—to our troops and other military personnel. Do they deserve it? Of course they do. If this bill doesn't pass, do they get it? Of course they don't. This will mean more money in the pockets of military families struggling to make it from one paycheck to the next. It will help returning heroes afford a place to live or go back to school. We invest in Defense health programs for men and women which, among other things, prevent the need to raise TRICARE fees. This bill will fight terrorism and protect our national security, and to tell James Proctor and people who have served gallantly in this military that we are not moving forward on this because minority rights aren't protected?

This bill funds international nonproliferation efforts to combat weapons of mass destruction as well as programs that will help us prepare the homeland for chemical or biological attacks. This bill will increase funding for special operations command to train and equip forces and support ongoing military operations. If we hear one thing when we go to Afghanistan, they will tell you how important special operations officers and troops are. This bill provides funds supporting the development and use of unmanned aerial vehicles.

Creech Air Force Base—named after General Creech who ended his career and his life in Nevada—was named after him, a great military officer. Indian Springs Air Base, it used to be called. It is midway between Las Vegas and the Nevada test site. This facility was going to be closed, until they determined these drones were some of the most important things in the military, and this legislation takes into consideration how important unmanned aerial vehicles are. This legislation helps reinforce special intelligence capabilities within the Army and the Marine Corps. This is a very good piece of legislation, an important step toward rebuilding our Armed Forces and protecting the American people.

I wish I had words adequate to express my personal appreciation—and I can speak for everyone on this side of the aisle—for the work done by Chairman LEVIN and JOHN WARNER. There are no two more honorable people in the world; whether they are rabbis, priests, ministers, there is no one who has more credibility and honesty than these two men. I have had conversations with these two fine Senators, where they said: This is what I am going to do. Do I need to check back with them and ask: Do you really mean what you said? No. Their word is their bond. Once they have said it, that is it.

I feel very bad. Senator LEVIN is going to have another opportunity to do one of these bills, but this man, Senator WARNER, won't unless we invoke cloture. We need to do that so that he can participate in coming up with the final bill that will lead to a conference with the House of Representatives. For 30 years—as I have said on the floor before, I don't know his predecessors—I served with a number of them—but the State of Virginia could not have had a better Senator than JOHN WARNER. They could have had one as good but nobody better. These two men have done their very best. I accept the product they have given us, the product we have right here, now, today. I accept it. Let's pass it. Let's invoke cloture on it, and if there are germane postcloture amendments, we will take care of those. That is what these men do.

Now, I want to say one other thing. Let's not forget that the ranking Republican on the Armed Services Committee is Senator JOHN MCCAIN. I understand the Presidential campaign takes candidates away from what goes on here. Both parties realize that. But it certainly would have helped move this legislation forward if the ranking member of this committee, the Republican nominee for President, had shown leadership and a commitment to this cause by talking to his fellow Republicans and saying: Come on, we need to get this passed. Not a word publicly or privately, that I know of.

We have a chance to do the right thing by coming together to invoke cloture and move toward passing this legislation. I hope all Senators, Democrats and Republicans, will join to move forward so we can honor and promptly care for our military families, while enhancing our country's ability to meet the security challenges we face.

Let me say that, while I talked about JOHN WARNER, I want to close by talking about CARL LEVIN. I, too, don't know all of his predecessors. I do know a little history. There could have been a Senator as good as CARL LEVIN from Michigan but no one any better.

We deserve this legislation. The country deserves this legislation. These two managers deserve this legislation. Let's invoke cloture. It will give us an opportunity to complete this legislation. I hope we can do that.

I ask unanimous consent that Senator LEVIN be given 2 minutes to close the debate.

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

The Senator from Michigan is recognized.

Mr. LEVIN. Mr. President, I thank the leader and I thank Senator WARNER for his statement in support of cloture. It is a difficult and courageous vote. I commend them on it.

The issue here is not earmarks; the issue is a perception that is being perpetrated that it is about earmarks. This green book is our committee report. It lists all of the items to be added to it and subtracted. This white book is our bill. It incorporates the charts and lines from the committee

report and is incorporated into this bill as law. The lines here—add-ons, subtractions, all of the requests of the President that weren't touched, by the thousands—are incorporated by reference in our bill.

The amendment of Senator DEMINT, who wants to eliminate the incorporation by reference, has exactly the opposite effect. All the line items that were added or subtracted would not be part of the bill if the DeMint amendment were agreed to. They would remain in the committee report without incorporation by reference in the bill. It goes exactly the opposite direction of making ''earmarks'' part of law.

The Warner amendment, on the other hand, would incorporate not just by reference but all of the language in the thousands of lines in the bill. The problem is that it would take so much time, according to the Government Printing Office, to do that, we probably could not get to conference and back to the Senate unless we had a lameduck session. We don't know that we will.

We cannot jeopardize this bill, which means so much to the men and women in the Armed Forces, by a requirement that achieves no purpose because the lines are already incorporated by reference, that achieves only the perception of a purpose, which apparently meets some political needs of people who are out campaigning. That is not enough to jeopardize the Defense bill.

This bill means everything to the men and women in the armed services. It should mean everything to us because they mean everything to us. We cannot jeopardize this bill by any action which may make it impossible for us to bring back a bill from conference.

I wish to end by again complimenting Senator WARNER. He has been absolutely wonderful in trying to work out a unanimous consent agreement. I treasure our 30 years together. I wish we could end this with a cloture vote that would allow us to finish positively the great effort he has put in. I hope we can get 60 votes for cloture.

CLOTURE MOTION

The PRESIDING OFFICER. Under the previous order, pursuant to rule XXII, the clerk will report the motion to invoke cloture.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned 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 S. 3001, the National Defense Authorization Act for Fiscal Year 2009.

Carl Levin, Patrick J. Leahy, Bernard Sanders, Robert P. Casey, Jr., Claire McCaskill, Sheldon Whitehouse, Benjamin L. Cardin, Robert Menendez, Bill Nelson, Charles E. Schumer, Richard Durbin, Thomas R. Carper, Patty Murray, Amy Klobuchar, Jon Tester, Jeff Bingaman, Harry Reid.

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

The question is, Is it the sense of the Senate that debate on S. 3001, the National Defense Authorization Act for Fiscal Year 2009, shall be brought to a close?

The yeas and nays are mandatory under the rule.

The clerk will call the roll.

The bill clerk called the roll.

Mr. DURBIN. I announce that the Senator from Delaware (Mr. BIDEN), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Massachusetts (Mr. KERRY), and the Senator from Illinois (Mr. OBAMA) are necessarily absent.

I further announce that, if present and voting, the Senator from Massachusetts (Mr. KERRY) would vote ''yea.''

Mr. KYL. The following Senators are necessarily absent: the Senator from Texas (Mr. CORNYN), the Senator from Florida (Mr. MARTINEZ), and the Senator from Arizona (Mr. MCCAIN).

Further, if present and voting, the Senator from Texas (Mr. CORNYN) would have voted ''nay.''

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

The yeas and nays resulted—yeas 61, nays 32, as follows:

[Rollcall Vote No. 200 Leg.]

YEAS—61

| | | |
|---|---|---|
| Akaka | Hagel | Reed |
| Baucus | Harkin | Reid |
| Bayh | Inouye | Roberts |
| Bingaman | Johnson | Rockefeller |
| Boxer | Klobuchar | Salazar |
| Brown | Kohl | Sanders |
| Byrd | Landrieu | Schumer |
| Cantwell | Lautenberg | Smith |
| Cardin | Leahy | Snowe |
| Carper | Levin | Specter |
| Casey | Lieberman | Stabenow |
| Clinton | Lincoln | Stevens |
| Cochran | Lugar | Sununu |
| Coleman | McCaskill | Tester |
| Collins | Menendez | Warner |
| Conrad | Mikulski | Webb |
| Dodd | Murkowski | Whitehouse |
| Dole | Murray | Wicker |
| Dorgan | Nelson (FL) | Wyden |
| Durbin | Nelson (NE) | |
| Feinstein | Pryor | |

NAYS—32

| | | |
|---|---|---|
| Alexander | Craig | Hutchison |
| Allard | Crapo | Inhofe |
| Barrasso | DeMint | Isakson |
| Bennett | Domenici | Kyl |
| Bond | Ensign | McConnell |
| Brownback | Enzi | Sessions |
| Bunning | Feingold | Shelby |
| Burr | Graham | Thune |
| Chambliss | Grassley | Vitter |
| Coburn | Gregg | Voinovich |
| Corker | Hatch | |

NOT VOTING—7

| | | |
|---|---|---|
| Biden | Kerry | Obama |
| Cornyn | Martinez | |
| Kennedy | McCain | |

The PRESIDING OFFICER. On this vote, the yeas are 61, the nays are 32. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to.

Mr. DURBIN. Mr. President, I move to reconsider the vote by which the motion was agreed to and to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. REID. Mr. President, I want to express my appreciation to everyone. I tell all Senators that Senator WARNER and Senator LEVIN are going to do everything they can to process this bill. We are going to complete this bill by tomorrow night, and we will get the bill to conference.

We can get a bill. Everyone who has something they want to do, talk to these two managers and they will do the best they can. This is an important bill, and the Senate realized that. I think this is really a good day for the Senate.

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. MENENDEZ. 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. MENENDEZ. Mr. President, I ask unanimous consent to speak as in morning business with the time to run postcloture.

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

THE ECONOMY

Mr. MENENDEZ. Mr. President, there is no doubt Wall Street and Main Street are in a crisis. The floodgates from the subprime storm have ripped open and the effects are clearly devastating—unemployment is up and markets are down.

While I may not be able to predict what is coming next, I would like to talk a little bit about how we got here. Americans may not have been tracking the exact moves and, I believe, the negligence on the part of the Bush administration that has led us to this point, but we certainly understand the consequences.

For New Jersey, my home State, financial losses on Wall Street mean job losses at home. I am worried about the 1,700 employees of Lehman Brothers in Jersey City. I am worried about the 6,000 employees at Merrill Lynch in Hopewell. I am also worried about those families and others who are going to have to face foreclosure or watch their home values plummet. And I am worried about millions of retirees and people approaching retirement who are going to realize that their life savings are under attack and diminishing as quicksand below their feet.

Everyone is demanding to know what got us here. Well, what got us here to a large degree is that for the last 8 years we have had an administration that has turned a blind eye to financial markets and deregulated at every turn, playing Russian roulette with our economy. Their regulatory changes gave lenders the chance to invent new ways to make bad loans and to pass off the risks on investors.

The Federal Reserve had a power given to it long ago by a Democratic Congress to fight predatory lending. For more than 7 years of the Bush administration it failed to use it. If they

had acted, many predatory lenders wouldn't have been allowed to pedal bad loans, which investment banks bought and then went bust and spurred this crisis.

There are so many parts to this pattern of deception and neglect. In 1994, a Democratic Congress passed the Homeowner's Equity Protection Act. It was the first statute to fight predatory lending. That was in 1994. That law mandates that the Federal Reserve must issue regulations to prohibit abusive and deceptive practices. But how long did it take the Federal Reserve to do so? It took the Federal Reserve 14 years—from 1994—to implement these regulations.

Senator Sarbanes, the former chairman and sometimes ranking member of the Banking Committee, and Senators SCHUMER and DODD have repeatedly introduced legislation to protect against predatory lending. Not once has any Republican been a cosponsor in the Senate. Yet we have been hearing a lot about Senator MCCAIN suggesting that all of a sudden he has seen the light. But he wasn't here all those years.

Even after reaching a bipartisan agreement on the Foreclosure Prevention Act and its successor, the Housing and Economic Recovery Act of 2008 in June, Republican Senators delayed the final passage of the legislation for weeks—for weeks. Between the two bills, Republicans had six filibusters to prevent the passage of this legislation.

Notwithstanding what was happening throughout the country, as a member of the Senate Banking Committee in March of 2007—well over a year and a half ago—I raised the prospect of a tsunami—my word—of foreclosures. But the administration said: Oh, no, that is an overexaggeration. Unfortunately, I wish they had been right and I had been wrong. But the fact is, we haven't even seen the crest of that tsunami take place.

A few months later, as foreclosures mounted, they assured us that the problems we were concerned about might bring broader consequences to the economy. But oh, no, all those who came before our committee, all the financial leaders of this administration—the Secretary of the Treasury, the head of the Federal Reserve, and the regulatory side of the Securities and Exchange Commission—oh, no, those problems would be contained to only the housing market, even though they couldn't even see the foreclosure crisis being the tsunami it has become.

In July I asked them about the prospect of a bailout of Fannie Mae and Freddie Mac, but they couldn't foresee that either or they were misleading the committee. I see the distinguished chairman of the Banking Committee is here, and he will recall they were asked head on. They asked for incredible authorities. Yet they could not foresee the possibility, even as the mortgage crisis continued to rear its ugly head in dimensions that some of us predicted a year and a half ago. Those who are in charge of the regulatory process, appointed by the Bush administration, ultimately could not see.

So even in the face of all that, we had the White House issue numerous veto threats against the bill that was critical to try to get to the very root cause of what is happening in America today—the housing foreclosure crisis—which has created this ripple effect in all our financial institutions. Yet they were issuing veto threats—veto threats. How could you be so blind or how could you be so much in the interests of one sector that you are unwilling to mitigate the risks on behalf of the American people?

This is not new. Look at 2005. In 2005, the House of Representatives—I was a Member there at the time—passed a bipartisan GSE reform bill by a vote of 331 to 90. GSEs are those Government entities; that is, Fannie Mae and Freddie Mac. We wanted to have a strong reform bill. It was offered by Republicans. Mike Oxley, the chairman at that time, a Republican, working with BARNEY FRANK, offered the bill. It passed overwhelmingly. In the House of Representatives—I served there for 13 years—I can tell you, when you get a vote of 331 to 90, that is about as bipartisan as you can get.

That bill was offered here by Senate Democrats exactly as it passed the House. But it was blocked by the White House. Even Mike Oxley, the former Republican chairman of the House committee, said recently:

> We missed a golden opportunity that would have avoided a lot of the problems we are facing now if we had not had such a firm ideological position at the White House and the Treasury and the Fed. What did we get from the White House? We got a one-finger salute.

His words, the chairman of the House Financial Services Committee, which passed the bill in a big bipartisan vote. We couldn't get it through here in the Senate.

I find it incredibly difficult to see that one of our colleagues who is running for President, Senator MCCAIN, now talks about all of these issues. He has a new ad out suggesting he is a reformer. But he was part of the same Bush views. He basically was in support of most lifting of regulations.

So as the tsunami approached—the one that we were told, when I raised it a year and a half ago, they couldn't see—the administration was consistently on the back side of that tsunami, watching it sweep toward us, watching while the American people got washed under.

We have had 8 years of our regulatory entities. Who are they? The Securities and Exchange Commission, the Federal Reserve, the OCC—the Office of the Comptroller of the Currency under the Treasury Department. Instead of being the cops on the beat to ensure we have a marketplace that is balanced—yes, we believe in a free marketplace and, yes, we believe in free enterprise, but an unregulated marketplace, as we found, is one that has excesses. The reason there are regulators is to make sure there is balance at the end of day. But when those who are supposed to be the cops on the beat—the regulators—hit the snooze button instead of going into action so we can prevent or mitigate what we are now facing, we see the consequences.

Some of my colleagues on the other side of the aisle call this scheme ''the ownership society,'' which means today: You are on your own. A strong belief in this scheme has led Senator MCCAIN, in the face of this crisis, to repeat the same old claim yesterday that the fundamentals of the economy are strong. Housing foreclosures are defying gravity, and he continues to make statements that defy reality. Great financial institutions collapse, and Senator MCCAIN has generally supported deregulation as the answer. That is like trying to say you want to take cops off the street to deal with a riot.

I have a real concern as we now move forward. We are where we are as a result of economic and regulatory policies of the Bush administration that JOHN MCCAIN thinks are the sound underpinnings of a good economy and how we continue to move forward. It is unacceptable. That is not change. That will not change the course of where we are headed in this economy. That will not change the course of the consequences to millions of Americans.

This is not just about wealthy investors. Look at the consequences. Look at what is happening. When Lehman Brothers has to close, not only are those 1,600 jobs in New Jersey at risk, but it affects all of those who had mortgages, all of those who used a service, all of those who bought a product, all of those who went out to eat in restaurants, all of those who, in fact, employed someone else to give them a service while they were working. The ripple effect is very significant.

When people get their statements for their retirement accounts, whether it be a 401(k) or a thrift savings or whatever, we are going to see what that means to people in real life. Some are going to look and say: I am going to have to keep working because I cannot continue this way.

I want to echo what one of my distinguished colleagues, the Senator from Illinois, said a few weeks ago in Colorado:

> Enough. Enough of more of the same. Enough denial about our challenges. It is time to develop solutions.

We look forward to having the Secretary of the Treasury before the Banking Committee this Thursday. There are very tough questions to be answered, not only about what has happened but what we are doing as we move forward.

It is enough of more of the same. Enough denial about our challenges. It is time to develop solutions. I believe we have to act fast to provide an economic stimulus package targeted to provide relief to those most in need, in

ways that stimulate our economy and infrastructure.

Let's be clear, we have to recognize the potential for what we call moral hazard. We can't have everyone on Wall Street think they can go to any excess whatsoever and the Government will bail them out. But at any given time in this process we have to look at what entity creates the risk. We are in one of the most precarious moments in our financial history. What entity creates perhaps a systematic risk, something that creates such a widespread risk that we have to look at that as an individual case and determine whether there is a different governmental action to be recognized.

In general, as we move forward, I certainly hope the legislation Senator DODD and Senator SHELBY worked on together, that went through six filibusters and a bunch of veto threats by the President and finally got through into law, is now actively pursued starting on October 1, which is when it goes into effect. We cannot have any of the Bush administration agencies and regulatory entities involved not be ready to go on October 1 to start providing relief on those hundreds of thousands of foreclosures—not only for those families but at the same time to try to make those performing loans so we can prop up all of these functioning institutions at the same time so all of us as Americans get some relief from an economy that is definitely headed in the wrong direction.

In general, as we move forward we have to establish which failures are isolated and which present a systemic risk to the entire financial system.

Second, it is fundamental to the health of our economy that we help homeowners stay in their homes. The housing market is not just a center of the crisis, it is also a pillar of our society. Taking steps to shore it up makes sense on so many levels. Especially as this school year gets underway, we can't sit back and watch children get thrown out not only from their homes but pulled from their schools.

Third, we absolutely must hold administration officials and regulators accountable. I myself promise to do my part when they come before the Banking Committee this week and next. They better be prepared for some tough questions and some straight answers. I am tired of hearing that you could not foretell what some of us were telling you and others about the tsunami of foreclosures. We could have stemmed the tide. We could have acted in a regulatory process to make sure that was minimized.

When you are asked what is the possibility of a bailout of Fannie Mae and Freddie Mac, I am tired of being told you can't foresee that happening, and just a month and a half later you have a very significant bailout—and you can't tell us how much the taxpayers will be on the hook for it.

I am tired of being told by some of our colleagues, such as Senator MCCAIN, that this economy has all the right underpinnings and all the right regulatory processes. That is a fantasy world. It is a world that ultimately Americans cannot afford. They cannot afford that type of thinking in terms of where we go over the next 4 years.

I look forward to those opportunities, moving forward this week and the next, to try to turn the course of where we are for all Americans and for our Nation as a whole.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Mr. President, I will be very brief.

I commend our colleague from New Jersey, a wonderful member of the Senate Banking Committee who has been invaluable over the last 18 months as we confronted a morass of problems that, as he very properly and accurately points out, began building up years ago.

This did not all of a sudden happen 18 months ago. As I said so many times, this was not a natural disaster. This was avoidable. That is the great tragedy of all of this. Had we had regulators on the beat—as he describes it, cops on the beat—had the legislation that passed overwhelmingly in this Congress actually been enforced with regulations promulgated dealing with deceptive and fraudulent practices in the residential mortgage market as many as 4 years ago—without a single regulation, under the leadership of this administration, being promulgated—we could have avoided the ''no doc'' loans, the liar loans, the subprime predatory lending, luring innocent people into dreadful situations that these brokers and lenders knew they could never afford to pay and then packaging them and branding them triple-A mortgages and selling them off as quickly as they wrote them to get paid off themselves and then pass on the responsibility to someone else. All of that history is replete as to how this situation unfolded. Now, of course, they want to avoid the blame for the consequences—this crowd does—for what happened.

The Senator from New Jersey laid it out very well. The public needs to know that. They also need to know what we should be doing together to get it right. We have a lot of work in front of us to get it right, but in order to get it right, we also have to acknowledge what went wrong, and there is a long history of what went wrong here.

I welcome the remarks of my colleague and thank him for his leadership and look forward to working with him.

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. LEVIN. 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. LEVIN. Mr. President, now that cloture has been invoked on our bill, we are going to be working very hard with Senators who have germane amendments that have not been cleared to see if we can make progress on such amendments. We not only request that Senators who have such amendments come promptly to the floor to meet with us or our staffs, but we also have to recognize that any such amendment, if it is not in a cleared package, would require consent, given the parliamentary situation. We have a cleared package already, which I think is upwards, perhaps, of 90 amendments or so, which we would hope to add to before we offer it to the Senate by unanimous consent.

After Senator WARNER has an opportunity to speak, I think we will put in a quorum call and do some other work we need to do in order to get to the next stage in this bill. Hopefully, we can now move promptly on this bill now that cloture is invoked. I thank the Senator from Virginia for all he did to make that possible.

The PRESIDING OFFICER. The Senator from Virginia is recognized.

Mr. WARNER. Mr. President, as the distinguished chairman said, we have some 90 amendments now cleared. Now that the issue of going forward is also at this time clear, there should be an impetus to move forward such that the package of 90-some can grow, hopefully by 30 or 40, before close of business tonight and possibly we can consider moving that as quickly as we can. We are ready to assist all Senators with regard to their amendments filed and, indeed, otherwise. We are here to try to ascertain our ability to put them in a package that is cleared; if not, despite the parliamentary situation, to help them secure a vote.

The PRESIDING OFFICER. The Senator from Michigan is recognized.

Mr. LEVIN. Mr. President, we will, of course, do our very best, working with Senators, to add to this package. There are some possibilities there. Again, I wish to alert Senators to the fact that we are in a postcloture situation, which means they must be germane unless there is unanimous consent to the contrary. Also, the parliamentary situation is such that it would require consent. But as the Senator from Virginia wisely points out, we are going to do our very best to not be limited to technicalities if we can get consent of the body to obviate those technicalities.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

THE ECONOMY

Ms. STABENOW. Madam President, I come to the floor, as many of my colleagues have on this side of the aisle, to express my outrage and my amazement at the continued comments of one of our colleagues, who is not here but is running for President, Senator JOHN MCCAIN, when even as Wall Street now is crumbling—we have seen the actions of the last couple days—he continues to say the fundamentals of the economy are strong. No matter what caveats he puts on it, he says the fundamentals of the economy are strong. That shows how out of touch he is, as is the President whom he works with, George Bush, and those who support this view that the fundamentals of the economy are strong.

I remember a while back coming to the floor after comments were made, as well, about at that time the chief economic adviser for Senator MCCAIN. Even though this person has now stepped down—also a former colleague—from that position, we know he is still very close to Senator MCCAIN and is involved in his efforts and so on. That is Senator Phil Gramm, whom I served with on the Banking Committee. He was the chairman of the committee when I was first taking my place in the Senate. To hear Senator Phil Gramm, who worked so closely with Senator MCCAIN—we assume, based on their long relationship and the positive things Senator MCCAIN has said, that he would play a major role in a new administration under JOHN MCCAIN, and he has said as well, in addition to Senator MCCAIN repeating that the fundamentals of the economy are strong, we also remember former Senator Phil Gramm's comment that this is just a psychological recession; it is all in our minds. He said it is psychological and Americans have become a nation of whiners—a nation of whiners.

I am wondering if people made it up or if they were hallucinating when they lost their jobs this year; 605,000 Americans have lost good-paying jobs this year, since this past January. Were they hallucinating? Was this a figment of their imagination? Is it a figment of their imagination that they cannot make their mortgage payment or put food on the table or pay their electric bill or go to the gas pump and be able to refuel with outrageously high gas prices? Of course not. Of course not.

We have seen the economy unfolding in a way so that only those who are very wealthy, who have the ability to take their capital anywhere in the world, can succeed under this philosophy that has been in place, this Republican philosophy of no accountability, no transparency, no one watching in the public interest as people have made decisions that have undermined pensions of working people. Heaven forbid, can you imagine if Lehman Brothers had been managing Social Security payments for millions of senior citizens, which is, by the way, something else Senator MCCAIN wishes to see happen, privatizing Social Security.

What we have seen is an undermining of the fundamentals of what has been the strength of our economy—good jobs, not just supply, but supply and demand, putting money in people's pockets so they can afford to take care of their families and keep the economy going.

In addition to 605,000 people who have lost their jobs since the beginning of this year, we had 3.5 million manufacturing jobs lost, and counting, since 2001, since President Bush came into office. Madam President, 3.5 million people were not hallucinating. It was not a figment of their imagination that they lost their job and that their families have been put into a tailspin as they are now trying to figure out where they go from here to try to keep some semblance of the American dream.

The fundamentals of the economy are strong, says Senator JOHN MCCAIN. We are, in fact, looking at an example of what it means to live under a philosophy of President Bush, JOHN MCCAIN, and the Republicans, and what actually happens if their philosophy comes into being, in terms of actions.

For the first time, in the time I can remember, we saw from 2001 until 18 months ago a time when the House, the Senate, and the Presidency were all in the hands of the same party. We had a chance to see what they believe in, what are their values, what are their philosophies.

What we have seen is a philosophy that has raised greed to a national virtue, that has viewed public regulation and accountability in the public interest, to protect public resources or public funds, as something to be scoffed at and to be unwound, to deregulate, to make sure that the areas of Government that have responsibility, that are accountable for our financial systems, our monetary systems, our energy resources and other areas, in fact, are not held accountable.

We have seen an administration and a Republican philosophy that doesn't work for the majority of Americans. It works for a few. If you are one of the folks who is out there trying to make sure you can make as much money as possible for yourself and your friends, you may have done pretty well. But there has been no willingness to understand the consequences for the majority of Americans or to accept any responsibility to make sure that the majority of Americans can benefit from the resources and opportunities and wealth of this great country.

This culture of greed and corruption, supported by Senator MCCAIN and President Bush and others for 6 years running, has led to Enron. I remember having people sitting in my office who had everything in their company's pension. They worked for Enron. They lost it all. They lost it all because of the schemes and the lack of accountability and oversight. They lost everything in their pension plans and they sat in my office and said: Thank goodness for Social Security because that is all I have left.

The same folks who gave us the Enron debacle want to privatize Social Security, including JOHN MCCAIN. No-bid contracts, such as Halliburton in Iraq; continual tax cuts only for the wealthiest Americans; weak oversight of public industries, regulated industries, regulated in the public interest; a disregard for the Constitution; and now the latest economic crisis we see.

Fundamentally, the question is: Who are we as a country and do we want to continue these failed philosophies? That is not by accident. I suggest this is the result of a world view, a set of values and philosophies that does not put the majority of Americans and our country first, but basically puts in place the idea that greed is good and you should make it while you can, and we are going to make sure we strip away any public protections so your ability is unfettered to do what you want to do for yourself as opposed to what needs to be done on behalf of the American people.

If we don't have a change in this country, we are going to see the same failed blueprint with more of the same failed results, disastrous results. That is why I believe so strongly we need a change in direction and a change of values to put the American people first.

Again, our colleague, Senator MCCAIN, who has said that the fundamentals of the economy are strong, has worked to deregulate markets, has called himself a deregulator. Unfortunately, it is those policies that have gotten us to where we are today.

This is the most serious financial crisis since the Great Depression. And what is the plan at this point? To study the problem. Senator MCCAIN has said today we should study the problem.

We don't need another commission. What we need are people who will make sure that the accountability, the oversight, the power that is here to stop price gouging, to bring oversight to what is going on is actually used. It hasn't been used under this administration. For 6 of the last 7½ years there was every effort, in fact, to pull back on who was put on boards and commissions, the regulators, the overseers. They essentially were made up of people who didn't believe in the mission, who didn't believe they were there for the public interest.

Right now we have a situation where there are 84,000 Americans who lost their jobs last month, 90,000 Americans who lost their homes last month. They don't want another study. They don't want another commission. They want leaders who get it. They want leaders who understand their role in this Government of ours, this public trust we have, not on behalf of just ourselves and our friends but on behalf of everybody in this country, to make sure the rules are fair, that they are followed,

and that everybody has a chance to make it. That is what it is supposed to be about.

I am also reminded that Senator MCCAIN has chaired the Commerce Committee and oversaw a massive deregulation scheme that gutted our oversight of these markets. Where is the accountability? Instead of protecting consumers and preventing abuse, the special interests ruled. And CHAIRMAN MCCAIN oversaw that effort.

The same economic philosophy of the Bush administration joined by Senator MCCAIN for the last 8 years has been to give more and more to those who have the most, ignore the ability of others to make sure they can have what they have earned—their job, their pension, that Social Security is strong, they can afford to put food on the table and pay for the gas and be able to have what we all expect as Americans that will be available to us if we work hard and follow the rules.

We have had the same philosophy in place, the same philosophy that has brought us 8 straight months of job loss, the same economic philosophy that has left incomes stagnant while families find themselves spending twice as much on the basics of their life.

Real household income is down. Imagine, we were lower in 2007 than in the year 2000. Incomes were lower in 2007 than they were in 2000. We are in a generation of having real concerns, and rightly so, that our children's lives and economic circumstances will not be as good as our own.

The same philosophy has led to gasoline inching upwards to $5 a gallon, and the same economic philosophy that leaves 47 million people without health insurance, leaving them worried about whether their children will be cared for when they are sick. The same philosophy has been in place since 2001 with this President with 6 years of no balance and accountability, just one world view, 18 months of our coming in now and slowing the trend down, working hard to bring in some accountability, even though there are unprecedented Republican filibusters to stop us.

But we have seen a philosophy that has failed. We need to be taking actions to stop the fraudulent, risky, and abusive lending practices, and that has been proposed over and over again. I commend Chairman DODD of the Banking Committee and Chairman BAUCUS of the Finance Committee and all those who have brought forward proposals that will make a difference.

We need to modernize the rules for a 21st century marketplace that will protect American investors and consumers. We have been proposing those changes. We also know we have in place a series of mechanisms that would hold special interests accountable and be able to make sure that people's incomes and pensions and the economy in general are protected. We just haven't used it.

I stand with another colleague of ours, Senator BARACK OBAMA, who has said if you borrow from the Government, you should be regulated. There should be public accountability, transparency, if you are borrowing from the Government. If we want to stop abuses of the public trust, we need to have openness, we need to know what is going on in the markets, we need to know what is going on. If we want to protect the American people, we need to regulate dangerous practices, such as predatory lending.

We know there is so much that we need to do right now. First is to address the hole we are in economically, and the next is to stop digging, stop making it worse. Stop tax breaks for those who have already done so well, even in these terrible circumstances. We need to make sure we are focusing on those who have worked so hard all their lives, and their families who are looking for the opportunity to be successful in America. They want to know they are going to have a fair chance to do that, that the rules are going to be fair, they are not going to be stacked against them and in the interest of a special few, which is what has been happening since 2001 over and over.

Let me go back to my original comment and look at the 3.5 million manufacturing jobs lost since 2001. Our colleague, JOHN MCCAIN, says the fundamentals of the economy are strong. I beg to differ. The fundamentals of the economy for Americans working hard every day making a paycheck, trying to make ends meet, worrying about whether they are going to have a job, health care, send the kids to college, put food on the table, pay for the gas and all the other things, for them the economy is not strong.

People are working too hard, making too little, and paying too much every day, and we do not need another study or another commission. We need leaders who get it, who have the right values, who understand, who have the intestinal fortitude to stand up and fight for the American people, the middle-class families who are sick and tired of what has been going on.

I can tell you, coming from the great State of Michigan, the people of Michigan have had enough. We have had enough. We can't take more of this. We can't take 4 more years of this. We can't take 4 more days of this. We have had enough. But to change it, I believe strongly that we need to understand this is not just an accident that we are where we are. It is a conscious philosophy. It is actions and inactions that have been taken by those in charge—by this President, supported by Senator JOHN MCCAIN, supported by Republicans in the House and the Senate—that have created the situation that has fostered the circumstances in which we find ourselves.

We can't do this anymore. We need to make sure government works for real people, real people who have had enough. I can't say it more strongly: We have to stop traveling down the road we are on, following this philosophy that has run us into extremely dangerous economic territory.

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

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

The bill clerk proceeded to call the roll.

Mr. TESTER. 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. TESTER. Mr. President, are we on the Defense bill or in morning business?

The PRESIDING OFFICER. We are on the Department of Defense bill under cloture.

Mr. TESTER. Mr. President, I want to take a moment to thank Chairman LEVIN and Senator WARNER for their willingness to work with me on the amendment that has been accepted into the managers' package. This amendment provides some additional comfort to family members whose loved one is killed while serving in the military by allowing the Defense Department to pay for travel to a memorial service honoring a servicemember killed on Active Duty.

Currently, the law allows for the services to provide transportation of family members to a burial service of a servicemember killed on Active Duty. Although the law makes this voluntary, the services, much to their credit, all make this travel available to the families. However, current law does not allow travel to memorial services. With many families split up over long distances, this can be particularly painful when a parent or sibling of one of our fallen heroes cannot afford to travel to a memorial service held by a unit or even other members of the family. Although some charity groups have been able to help these families attend memorial services for their fallen loved ones, when servicemembers die in service to their country, it is this country's moral obligation to help their families in every possible way.

This amendment would allow the Secretary of each service to allow family members of fallen heroes to attend one memorial service as a way of helping to honor those who give the ultimate sacrifice—their lives—to our Nation. It would be voluntary. The services do not have to participate, but at least they would have the option, which is something they currently do not have.

Earlier this year, a constituent of mine suffered the loss of his son. He died in a hospital in Canada after being injured in Iraq. He was on a transport flight from Germany to Walter Reed when his condition worsened and the plane diverted to Halifax. When my constituent's ex-wife sought to have a memorial service for their son in Phoenix prior to the burial at Arlington National Cemetery, the Army had to tell the man, whose son had given his life for our country, that the country could

not help him attend that memorial service.

I think we can do better. I think we should do better. This amendment will allow us to do better.

When a soldier or marine or airman goes to war, the whole family goes to war. When a servicemember gives the ultimate sacrifice and is killed in service to our Nation, we need to do the right thing for the family. That is why I have offered this amendment. Again, I thank Chairman LEVIN and Senator WARNER for working together to help get this amendment into the managers' package.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. SANDERS. Mr. President, I ask to be able to speak as in morning business.

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

## THE ECONOMY

Mr. SANDERS. Mr. President, this week we have learned that Lehman Brothers, one of the oldest financial institutions in our country, an investment bank that has survived two world wars and a Great Depression, has proven that even it could not survive 8 long years of deregulation and lax oversight by the administration of George W. Bush. It is going bankrupt.

Yesterday we also learned that the beleaguered Merrill Lynch, the largest brokerage firm in this country, will be bought out by Bank of America, the largest financial depository institution in this country. Now we are also learning that AIG, the largest insurance company in the United States, and Washington Mutual, the largest savings and loan association in this country, are also in deep financial trouble. The list of troubled banks that the FDIC maintains is growing larger and larger.

In addition, last week, to avert a complete mortgage meltdown, we saw the Bush administration bail out Fannie Mae and Freddie Mac, putting tens, if not hundreds, of billions of dollars of taxpayer dollars at risk. Earlier this year, we saw the Federal Reserve orchestrate the takeover of Bear Stearns, a deal backed by $30 billion in taxpayer dollars.

At the same time, Americans are still paying outrageously high prices at the gas pump. Prices are still over $3.50 a gallon, even though the price of oil is now down to almost $90 a barrel. Every little hiccup to send gas prices up or down with virtually no connection to real supply and demand indicators.

Up to this point, the Republicans in the Senate have prevented us from taking any real action to rein in those volatile energy markets, so oil could be down this week, but any kind of rumor or instability, whether man made or natural, could send those same prices soaring again.

I think it is important the American people understand why we got to where we are today; why we are in a situation where millions of workers are fearful about being able to heat their homes in the wintertime while workers all over this country are finding it very difficult to fill their gas tanks. Is what occurred simply bad luck? Are we at the bottom of the so-called business cycle? How do these happenings occur to what was once the strongest economy in the world with the greatest middle class?

If we take a deep look at what is going on in terms of the financial crisis we are suffering through today and the volatile energy prices we are suffering through today, we can understand that both are the result of deliberate policy decisions made by the Congress and the administrative negligence on the part of the Bush administration. These deliberate policies were the result, to a significant degree, of the power and influence of corporate lobbyists—who also make huge campaign contributions—representing some of the most powerful special interests in the world, whether it is big oil, big coal or whether it is the largest financial institutions in the world.

What these lobbyists fought for and secured was selling deregulation snake oil, deregulation snake oil backed with millions in campaign contributions. That is what I think is the overlying issue as we look at the financial crisis facing Wall Street and the soaring and volatile prices in terms of oil.

All too often when bad things happen because of failures here in Washington, both parties generically blame it on the other and no one stands up and tries to point out what, where, why and, most importantly, who is behind these bad policies. As an Independent, I think that breeds a cynicism and an anger and a frustration on the part of the American people about the political system of our country.

Well, in this case, I think the American people deserve a little more of an explanation. It has been their hard-earned dollars that have been needlessly spent on $4 a gallon gasoline. It is their retirement savings and, my God, I wonder all over this country the kind of frustration that exists today with the volatility in the stock market going down 500 points yesterday and what people are worried about, whether their 401(k)s are going to be worth very much in the future. These are very frustrating times for the American people.

In the case of both of these current crises, the financial services and energy crisis, one of the major actors and perhaps the main actor in creating what we have seen today is a former Senator from Texas named Phil Gramm. In terms of our financial crisis, one of the reasons we are in the mess we are in today is because of the enactment of the Gramm-Leach-Bliley Act in 1999. As you may recall, this legislation was responsible for deregulating the financial services industry by completely repealing the Glass-Steagall Act.

Now, I was a Member in the House of Representatives at the time. I was a member of the House Banking Committee when this legislation was being debated. I remember that debate very well because I was in the middle of it. Let me tell you, I do not mean to be patting myself on the back, but I think it is important to take a little bit of a look at recent history.

This is 1999 during the debate. This is what I said as a member of the House Banking Committee:

> I believe this legislation will do more harm than good. It will lead to fewer banks and financial service providers, increased charges and fees for individuals, consumers and small businesses, diminished credit for rural America, and taxpayer exposure to potential losses should a financial conglomerate fail. It will lead to more mega mergers and a small number of corporations dominating the financial service industry and a further concentration of economic power in our country.

Unfortunately, that is exactly what is happening today, and I would much prefer to have been wrong than right. But on the other hand, former Senator Phil Gramm—who I should mention to you has been Senator MCCAIN's top economic adviser—at that time had a very different opinion of the legislation which bears his name. Senator Gramm at that time said something very interesting about that piece of legislation. This is what he said:

> Ultimately the final judge of the bill is history. Ultimately, as you look at the bill, you have to ask yourself, will people in the future be trying to repeal it? I think the answer will be no.

Well, put me down as a Senator who believes we need to repeal Gramm-Leach-Bliley. Put me down as a Senator who believes we need to restore strong Government oversight of the banking industry. Put me down as someone who believes we need to have firewalls in the financial services sector so that we do not have the domino effect we are seeing right now.

There was a reason Congress enacted reforms of the banking industry in the 1930s, and that was because we did not want to repeat the mistakes that caused the Great Depression. Failing to have learned from our mistakes, it looks as if we are doomed to repeat them.

The lesson here is that left to their own devices, company executives will make poor decisions and put their investors' capital at risk. The important lesson here is that poorly regulated financial markets invariably endanger the health of the entire economy and, of course, as this world becomes more and more interlocked, in fact, the economy of the entire world.

In that context, the extreme economic ideology of people such as

former Senator Gramm, and for that matter Senator MCCAIN, says that the people of this country should simply stand back and allow executives in Wall Street boardrooms to make decisions with no public oversight that have the potential of wrecking our economy. In other words, deregulate them, let them do whatever they want in order to improve their bottom line, and the Government does not have to watch to see what the implications of their decisions are for our country or for our taxpayers.

I disagree with Senator Gramm's perspective. People who want to gamble their own money are certainly welcome to do that. But when your actions have the ability to dry up credit for businesses all over our country, when your actions can dry up mortgages for people who desperately want to buy a home or stay in their home, when your actions depress the value of Americans' savings, we need public oversight, and it should be strong oversight with the primary mission being to protect the American public from the reckless greed that has brought us to where we are today.

In former Senator Gramm's world view, when it comes to protecting the American consumer and the safety and soundness of our financial institutions, Government is not the answer, Government is the enemy, Government is terrible. But when banks fail, all of a sudden, guess what happens. The Government has no choice but to intervene to prevent the entire economy from collapsing. The Gramm-McCain version is one where profits are private, going to the very wealthiest people in this country, but risk is public, being assumed, by and large, by the middle-class and working people of this country. It is socialism for the very rich, and free enterprise for everyone else.

Unfortunately, former Senator Gramm was not satisfied by having set up the dominos in 1999 that made our current financial crisis possible. In 2000, he decided his loot-and-burn economics had to be applied to the energy markets as well now. This is an achievement. First you go after deregulating the financial markets, and then you move to energy. And out of his efforts in energy, of course, the so-called Enron loophole was born. Senator Gramm, who was then Chairman of the Banking Committee, was one, if not the main proponent of the provision deregulating the electronic energy market that we now know as the Enron loophole.

Was this done through a deliberative process with debate and hearings? Actually, no, it was not. This very important provision was slipped into a massive unrelated bill with no discussion and no hearings, and the American people today are paying the price for that.

The Federal agency that oversees those energy markets was the Commodity Futures Trading Commission, the CFTC. Conveniently, the head of that agency at the time was a Wendy Gramm. Yes, you guessed it, it was his wife. And Wendy Gramm had become head of the CFTC after being on the board of directors of, well, you guessed it, the Enron Corporation. Even Hollywood could not come up with a plot quite so transparent.

The result of this deregulation of the energy markets has, according to many experts who have testified before Congress, allowed speculators on unregulated markets to artificially drive the cost of a barrel of oil up to over $147 a barrel.

My colleagues, including Senator DORGAN and Senator CANTWELL and many others, have laid out the way that speculators have driven up oil prises in many well-researched presentations here on the floor and a number of Senate committees. I applaud them for their leadership. But all of this speculation and all of the millions and billions of dollars that Americans have spent on exorbitantly priced gasoline would not have happened if it had not been for the efforts of Senator Gramm pushing through the so-called Enron loophole.

As central as Senator Gramm was in creating the financing and energy disasters we are currently facing, he was aided and abetted by the Bush administration's willingness to simply look the other way. Even with all of the harm that has been done to the economy, President Bush still refuses to acknowledge it. One wonders what world he is living in.

And, shockingly, Senator MCCAIN is singing from the same song sheet. On September 15, Senator MCCAIN said:

> The fundamentals of our economy are strong.

Does that sound familiar? Well, it should. Since 2001, President Bush and members of his administration have repeatedly described the economy as strong and getting stronger: Thriving, robust, solid, booming, healthy, powerful, fantastic, exciting, amazing, the envy of the world.

Those are the adjectives used by the President and members of his administration over the last 8 years. What economy are they looking at? The fact is, when it comes to the economy, Senator MCCAIN and President Bush do not get it. Is it a surprise to anyone that Senator Gramm, who, until fairly recently, was Senator MCCAIN's major economic adviser on his campaign, described Americans as ''a nation of whiners'' who are suffering through a ''mental recession''?

Was it a surprise? What is surprising is that Senator MCCAIN is trying to pass himself off as a maverick when he looks to the same people, people such as Senator Gramm, who laid the groundwork for our current economic problems.

While Senator MCCAIN and President Bush think the fundamentals of our economy are strong, while they talk about how robust things are, the reality is the middle class in this country is collapsing. And if we do not make the kind of bold changes we need to make, for the first time in the modern history of America our children will have a lower standard of living than we do.

We are looking at the American dream as an American nightmare. We are moving in the wrong direction economically as well as in so many other areas.

Since President Bush has been in office, nearly 6 million Americans have slipped out of the middle class and into poverty. How do you think the fundamentals are strong when 6 million more Americans enter the ranks of the poor? Since Bush has been in office, over 7 million Americans have lost their health insurance. Now well over 46 million Americans are without any health insurance at all, and even more are underinsured. Does that sound like the fundamentals of the economy are strong?

Since President Bush has been in office, over 3 million manufacturing jobs have been lost, total consumer debt has more than doubled, median income for working-age Americans has gone down over $2,000 after adjusting for inflation. They do not get or do not care that prices on almost everything we consume are going up and up and up.

Today the typical American family is paying over $1,700 more on their mortgages, $2,100 more for gasoline, $1,500 more for childcare, $1,000 more for a college education, $350 more on their health insurance, and $200 a year more for food than before President Bush was in office.

In addition, home foreclosures are the highest on record, turning the American dream of home ownership into the American nightmare. The unemployment rate has skyrocketed. Since January of this year, we have lost over 600,000 jobs. Adding insult to injury, the national debt has increased by over $3 trillion, and we are spending $10 billion a month on the war in Iraq, making it harder and harder to do anything to help the struggling middle class.

Is it any wonder that Rick Davis, Senator MCCAIN's campaign manager, recently said: ''This election is not about issues''? If my economic policies were to follow President Bush's and the economy was in a state of near recession and unemployment was up and median family income went down and more people were losing health insurance and more and more people were in debt, the foreclosure rate at the highest rate in American history, if all those things were happening, I would certainly also run on a campaign not having anything to do with issues whatsoever. That is what I would do. I would run away from all of those issues. That is certainly JOHN MCCAIN's strategy. Who can blame him?

JOHN MCCAIN claims to be offering change. But on issue after issue, he is offering more of the same—more tax breaks for the very rich, more unfettered free-trade agreements that will

cost our country millions of good-paying manufacturing jobs, more tax breaks to big oil companies ripping off the American consumer at the gas pump; in other words, more of George Bush's failed policies that have led to a collapse of the middle class, an increase in poverty, and a wider gap between the very rich and everyone else.

JOHN MCCAIN and George Bush may be right in one respect: If they are talking about the wealthiest people and the most profitable corporations, the economy is fundamentally strong. Things could not be better for those people, that small segment of our society. In fact, one can make the case—and economists have—that the wealthiest people have not had it so good since the robber baron days of the 1920s.

Right now—this is really quite an astounding fact—the top one-tenth of 1 percent of income earners earn more income than the bottom 50 percent. That gap between the people on top, who are busy trying to build record-breaking yachts and all kinds of homes, busy buying jewelry that is unbelievably expensive—one-tenth of 1 percent earn more income than the bottom 50 percent—that gap is growing wider. Also the top 1 percent own more wealth than the bottom 90 percent. We as a nation have the dubious distinction of having the most unfair distribution of wealth and income of any major country on Earth.

The wealthiest 400 people have not only seen their incomes double, their net worth has increased by $640 billion since President Bush has been in office. Can we believe that? The wealthiest 400 Americans have seen their net worth increase by $640 billion since George Bush has been in office. Today, the richest 400 Americans are now worth over $1.5 trillion. At the same time, we have the highest rate of childhood poverty; 20 percent of our children live in poverty. We have working families lining up at food banks because they don't earn enough to pay for food.

Apparently, all of that is not good enough for Senator MCCAIN and for President Bush. They insist that those tax breaks be made permanent. In George Bush's and JOHN MCCAIN's world, those are the Americans who are struggling. The wealthiest 400 Americans just can't make it on $214 million a year. It must be pretty hard to scrape through and get the food and shelter a family needs, so obviously those are the guys who need a tax break.

We have had almost 8 years of President Bush's economic policies. They follow, of course, 8 years of the policies of President Clinton. I think it is important to say a word to compare what happened during those two administrations.

I happened, as a Member of the House, to have disagreed with President Clinton on a number of issues. But I think when we look at his overall economic record and contrast it to the overall economic record of President Bush and the policies Senator MCCAIN would like to follow, the record speaks for itself.

Take a look at job creation, how many new jobs have been created. Under President Clinton, almost 23 million new jobs were created. That is a pretty good record. Did every one of those jobs pay the kind of wages we would like? No. But nonetheless, almost 23 million new jobs were created in Clinton's 8-year term. Under President Bush, less than 6 million jobs have been created.

Under President Clinton, more than 6 million Americans were lifted out of poverty and into the middle class. Under President Bush, the exact opposite has occurred. Nearly 6 million people who were in the middle class have been forced into poverty. Under President Clinton, median family income went up by nearly $6,000. That is a lot of money. Under President Bush, median family income is going down.

The Republican Party for years has told us they are the party of fiscal responsibility above all. Yet, under President Bush, the national debt has increased by more than $3 trillion. Under President Clinton, we had Federal surpluses as far as the eye could see. Under President Bush, we have had Federal deficits as far as the eye can see.

There is a clear choice to be made this year. That choice is, does Government work for all of the people, for the middle class, for working families, for people who are struggling, or do we continue to develop policies which represent the people on the top who, in fact, have never had it so good since the 1920s?

The future of our country is at stake. I personally believe we cannot afford 4 more years of President Bush's policies.

I yield the floor.

The PRESIDING OFFICER (Mr. SALAZAR). The Senator from North Dakota.

Mr. DORGAN. Mr. President, the wreckage all of us observed yesterday and the consequences of a 504 point drop in the stock market and the concern in this country about its economic future can be traced to a lot of things. I wish to talk about some of them for a few minutes. I want to show a couple charts that describe some of the origin of what has weakened this economy, and then I will talk about how this all happened.

Almost everyone in this country in recent years has seen ads like this from Countrywide, the biggest mortgage banker in the country. Countrywide had an advertisement that said: Do you have less than perfect credit? Do you have late mortgage payments? Have you been denied by other lenders? Call us.

Countrywide Bank, the biggest bank of its type in America, saying, essentially: You have bad credit? You need money? Call us. Most people would probably hear that, as I did over the years, and think: How can they do that? How does that work. You advertise that if people have bad credit, they ought to come to you.

Here is Millenia Mortgage. They said:

> Twelve months, no mortgage payment. That's right. We will give you the money to make your first 12 payments if you call in the next 7 days. We pay it for you. Our loan program may reduce your current monthly payment by as much as 50 percent and allow you no payments for the first 12 months. Call us today.

Here is a mortgage company saying: Come on over here, get a mortgage from us. We will give you a home mortgage. You don't even have to make the first 12 months' payment. We will make it for you. They don't, of course, say here that what they will do is stick that on the back of the mortgage and add interest to it. But that is what they are advertising.

Here is Zoom Credit. All of these are television, radio ads. They said:

> Credit approval is just seconds away. Get on the fast track at Zoom Credit. At the speed of light, Zoom Credit will preapprove you for a car loan, a home loan or a credit card. Even if your credit's in the tank, Zoom Credit's like money in the bank. Zoom Credit specializes in credit repair and debt consolidation too. Bankruptcy, slow credit, no credit—who cares?

That is what Zoom Credit was saying to customers. You got bad credit, you have been bankrupt, who cares? Come and get a loan from us. They say: We don't care if you have bad credit.

In fact, here is what they also say: Get a loan from us. We will give you what is called a ''low doc'' loan or a ''no doc'' loan. If you have bad credit, we will give you a ''low doc,'' which means we will give you a home mortgage and you don't even have to document your income for us. You don't have to prove your income to us. That is called no documentation. Bad credit, come and get a loan from us. No documentation, that is OK. It is unbelievable and unbelievably ignorant.

I pulled this off the Internet. Perfect credit not required. No-income-verification loans. Pretty interesting, isn't it? Come and get a mortgage from this company. You don't have to verify your income, and you don't need perfect credit. Here is a company on the Internet that wants to give you a home loan. It says: You can get 5 years' fixed payments with a 1.25-percent interest rate. That is interesting, isn't it? Of course, it is a sham, the 1.25-percent interest rate you get to pay. Again, bad credit? Come to us, we will give you a mortgage. You don't want to document your income, that is OK. Bad credit and no documentation. And by the way, we will give you a 1.25-percent interest rate.

All of us, when we were kids, went to western movies from time to time. In virtually every movie, they had the guy who came into town with a couple old mules driving a slow wagon. He wore a silk shirt and striped pants, and he was selling snake oil. It cured everything from hiccups to the gout. He was selling snake oil from the back of his

wagon. This is not in an old western. These are companies on the Internet, on television, on radio.

I go back to Countrywide, the largest mortgage broker. Do you have less than perfect credit? Come to us. We want to invite you, get a mortgage from us. That is what happened.

Now the stock market collapses on Monday. What is the relationship? The relationship is that our economy is reeling from the wreckage of the subprime loan scandal. What does that mean, subprime loans? All of this starts with some brokers out there who are selling mortgages. Then they sell to it a mortgage bank, and then the mortgage bank securitizes it and sells it up to a hedge fund, and the hedge fund probably sells to it an investment bank. What they do is, they loan money to people with bad credit and provide no documentation or they loan money to people with good credit and give them teaser rates with resets and prepayment penalties that the people can't possibly pay 3 years later and set them up for failure and then sell these loans in a security. As they used to pack sawdust in sausage, they pack bad loans with good loans. They slice them and dice them and sell them up the stream.

So now you have loans, a cold call to a person who had a home by a broker saying: You are paying 6 percent interest rate on your home mortgage? We will give you one for 1.25 percent. We will dramatically reduce your home mortgage monthly payment. And by the way, we are not going to emphasize this—in fact, we may just mention it in a whisper—ultimately, it is going to reset, and it will be 10 percent in 3 years. And by the way, you don't have to document your income. At any rate, you can't pay with your income at a 10-percent rate in 3 years, but it doesn't matter, you can sell that home and flip it between now and then. Don't worry about it. That is the kind of thing that was going on with an unbelievable amount of greed—with the brokers, with the mortgage companies, with the hedge funds, the investment banks, all grunting and snorting and shoving in the hog trough here. They were making massive amounts of money, and the whole thing collapsed, just collapsed.

Now, how does it happen that it helps cause a bankruptcy in France or a bankruptcy in Italy or a 504-point drop of the stock market here in the United States on Monday and so many other failures? Bear Stearns doesn't exist anymore, Lehman Brothers is going bankrupt. I could go through them all. How is it that all of this is happening, all of this carnage and wreckage as a result of this greed?

Let me go back just a bit. Two things, it seems to me. No. 1, there are a bunch of folks who were fast talkers who decided they were going to sell Congress on financial modernization. We have learned this lesson. This lesson existed in the 1930s. In the Roaring Twenties, it was ''Katy, bar the door,'' anything goes, and the economy collapsed into a Great Depression. Franklin Delano Roosevelt, with the New Deal, said: This isn't going to happen again. Banks were failing. Banks were closing. Depositors couldn't get their money. Franklin Delano Roosevelt and the New Deal repaired that economy by saying: We are going to separate commercial banking institutions from other risky enterprises. We are not going to let banks get engaged in real estate and securities and insurance. We are not going to do that because this is the very perception of safety and soundness. Safety and soundness determines whether a bank is safe and sound. If you injure that perception by fusing risky enterprises—real estate, for example, and securities underwriting—with traditional banking issues, you do a great disservice to this country's economy. So they were separated with the Glass-Steagall Act, for example.

In 1999, the Financial Modernization Act was passed. I was one of eight Members of the U.S. Senate to vote against it because it repealed the Glass-Steagall Act. Oh, they all promised firewalls. It didn't mean a thing. I warned then, and I warn again now: These are the significant consequences of forgetting the lessons of the 1930s which are going to haunt us, and they are haunting us.

So what happens is they not only passed a Financial Modernization Act which repeals Glass-Steagall and the very things we put in place to protect against this sort of thing—the mingling of risky enterprises with banking—they not only do that, but George W. Bush wins the Presidency and he comes to town and he appoints regulators—i.e., Harvey Pitt to run the Securities and Exchange Commission, just as an example. What is the first thing he says when he gets to town? He says: You know something, you should understand that the Securities and Exchange Commission is a business-friendly place now. Right. Well, that is what happened in virtually every area of regulation. People were appointed who didn't have the foggiest interest in regulating. The whole mantra was to deregulate everything: Don't look, don't watch, don't care. As a result, in virtually every single area, we saw this kind of greed and unbelievable activity develop across this country.

So now we went through this period with a housing bubble built up with these subprime mortgages, and then we saw the whole thing go sour and people wonder why. It is not surprising at all that it went sour. What is surprising to me is how so many interests got sucked in by this and how unbelievably damaging it has been to the American economy.

How could they have missed what was going to happen here? We had some of the biggest investment banks in the world that were buying securities that had bad value mixed in with securities, and they didn't know it, they say. Where is the due diligence? How on Earth could that have happened?

Now, there is a kind of a no-fault capitalism and no-fault politics going on around here. No-fault capitalism—all of those folks who said: Get Government off my back. We want to run these big enterprises the way we want to run them. Then they run them into the ground, and they need to have the Federal Reserve Board open—for the first time in their history—a window for direct lending to investment banks just as they do to regulated banks. Why? Because they were worried they were too big to fail. If an enterprise such as that is too big to fail, why is it too small to regulate? Why is it that all of the regulators sat on the sidelines while something that most people don't even know about—$40 trillion in value of credit default swaps were out there, and much of it is as a result of dramatic borrowing and leverage. It is a house of cards with a big wind coming, and that wind can play havoc with this financial house of cards.

So the no-fault capitalism portion of it is that they do what they want to do—make a lot of money. We all know what the compensation has been: unbelievable money for those at the top who are running these organizations. Then it takes a nosedive, and a bunch of our bankers and others convene in New York and they just say: All right, who are we going to save, who are we going to prop up, or who are we going to give a direct loan to? That is no-fault capitalism. No-fault politics: It is all of those who were running around here thumbing their suspenders saying: Well, we have to deregulate, we have to do this and that. Let's ignore the lessons of the 1930s. Let's get rid of Glass-Steagall. Let's let commercial banks get engaged in securities underwriting and other risky activities. All of those folks are now saying: Well, that is not what caused this problem. In fact, they are still strutting their stuff saying the economy is strong.

The economy is not strong. The economy is dramatically weakened as a result of what these folks did to the economy and as a result of this administration's decision that regulation is a four-letter word. I have news for them: Regulation has more letters than four, and regulation is essential to the functioning of this kind of Government.

I think free markets are very important. I believe in capitalism and the free market system. I don't know of a better allocator of goods and services than the marketplace, but I also understand the marketplace needs a regulator. There need to be regulators who make certain that when the marketplace gets out of whack, somebody calls it back in. Regulators are like referees, except these regulators in this administration had no striped shirts and no whistles to call fouls because they didn't think anything represented a foul. It was ''let the buyer beware.''

Now, what happens next? Well, regrettably, none of us know. We don't

know what will happen after yesterday. We don't know what will happen the rest of the week. We don't know what else is there. Some say the biggest reset of mortgages will occur in the fourth quarter of this year, which is very soon now. We don't know the consequences of all of this because this was a spectacular, unbelievable trail of greed that, in my judgment, has dramatically injured this country.

What is important now is for us to try to create some sort of a net to catch this economy and then put it back on track with really effective regulation—and decide that we are going to have sound business principles and we are going to relearn the lessons of the past. We shouldn't have to relearn them, but we will. We understood the lesson from the 1930s. We taught it in our colleges, about the fundamentally unsafe condition of merging risk with banks. Yet, I can recall when it was sold to the Congress as financial modernization. It was the big shots getting their way, and we all pay a dramatic penalty for it.

''The economy is strong,'' my colleagues have said. Senator MCCAIN—and I wouldn't normally mention him on the floor of the Senate. He is out there running for the Presidency. But since Senator MCCAIN grabbed pictures of me and several others and put them in television commercials to suggest, here is what is wrong, perhaps maybe it is OK for us to say what is wrong are those who were such cheerleaders for taking apart that which was to protect this country in the first place—Glass-Steagall and others. They knew better—should have known better—and what is wrong is those who aided and abetted and carried the wood in the last 7 years to say to regulators: Don't bother regulating. Get your paycheck. We will give you a paycheck. Just be friendly. Don't regulate. Don't look. Those who did that did a great disservice to this country, in my judgment.

Now, I recognize this is not a political system in which one side is always all right and one side is always all wrong. That is not the case. It just is not. Both political parties for a long time have contributed much to this country. But I would say this: We have been through a period that I think is devastating to this country's economic future. A lot hangs in the balance.

I think if the American people want more of the same, then they can sign up for that. They can say: Well, we kind of like what is going on here. We like the notion that regulators were told not to regulate and complied aggressively. We like the notion that we have nearly 700,000 people who have lost their jobs just since the first of this year. We think that has gone really well. We like the fact that the price of oil doubled from July of last year to July of this year. We think that is just fine. If people really believe that—we like all of these things—there is certainly a way to continue that, and that is just to say to all those who are running in support of President Bush's policies: Boy, let's just keep doing it. But it seems to me—the old law says when you are in a hole, stop digging. It seems to me the American people understand that very well.

It is time now—long past the time—for this country to get back to fundamentals and for the American people to insist from their Government the kind of responsibility that Government should manifest in terms of its responsibility to protect the marketplace, to protect the American taxpayer, to try to do things that help all Americans, help lift up all Americans.

My colleague described a bit ago the circumstance in this economy where the wealthy have gotten very wealthy—much wealthier—and then the folks in the rest of the population are struggling to figure out: How on Earth can I keep my job. We have all of these folks sending these jobs to Asia. How do I keep my job? Or if I keep my job, why is it that they withdraw my health insurance and no longer provide health insurance? Why do I not have a retirement program anymore? That is what working people face every single day. They get out of bed, many of them work two jobs, they work hard, trying to do the right thing, and they discover the folks at the very top are getting by with really huge incomes.

By the way, last year the top income from a hedge fund manager was $3.6 billion—$3.6 billion—and they pay a 15-percent top income tax rate. Isn't that unbelievable? By the way, they don't even pay that, in most cases, because they try to run their carried interests, as they call it, through tax-haven countries in a circumstance where they can defer compensation and avoid paying even the small 15 percent income tax rate. So when somebody comes home making $3.6 billion and the spouse says: How did you do today, honey? Well, pretty well. This month, I made $250 million. That is a far cry from what most American working people would understand or accept, in my judgment. When you see what is happening at the top compared to what is happening to the rest, there is something wrong with this economy.

Now, I have just described in some detail what happened to cause this subprime collapse. To most people—it is a term that is almost foreign—subprime lending. Yet much of it is at the root of the dramatic problems we now have: the failure of investments, the difficulty of all kinds of institutions that loaded up with this. Why did they load up? Because the people who sold these subprime mortgages put prepayment penalties in them. They loaded them with very low interest rates at the front end and then a reset to very high interest rates on the back end—in most cases, 3 years—and then put prepayment penalties in so you couldn't get out of it. So when they securitized it and sold the security upstream to the hedge funds and the investment banks, they looked at that and said: This is really good. We have a huge, built-in, high income from these mortgages, and the borrower can't get out of it because there is a prepayment penalty. That is why they paid premiums for it. That is why they all thought they were getting rich. It was unfettered greed. They all made money in the short term, and the American economy takes a giant hit in the longer term.

Finally, let me just say I don't think this is a case that is like all other cases. We are challenged in lots of ways on many different days here in the Congress. This is a different challenge. This country's economic future hangs in the balance, and the question is, Will we have the leadership? Will we exhibit the leadership to do this?

Mr. President, the answer has to be yes. We cannot decide no, maybe, maybe not. The answer has to be that this requires new, aggressive leadership. We have a Presidential campaign going on now, and I happen to support Senator OBAMA. I think it is critically important to look at the history and the record of the candidates to find out who is going to support the kinds of things that are necessary to get this country back on track.

I have talked previously a couple times about John Adams' description of trying to put a new country together when he would write to Abigail. He traveled a lot and was in Europe as they were trying to put this new country together. He would write to his wife Abigail and say plaintively in letters: Who will provide the leadership for this new country of ours? Where will the leadership come from? Who will be the leaders? Then in another one he would lament that there is only us—me, George Washington, Ben Franklin, Mason, Madison, and Jefferson.

In the rearview mirror of history, that was some of the greatest human talent ever assembled, and this country was given leadership. Every generation asks, where will the leadership come from? If ever there was needed new leadership to step forward and say we need a new way, not the old way, we need to put America back on track, to get our grip and our traction, it is now.

I think our economy is in significant peril. I know what happened to it. The question is, how do we fix this mess? How do we deal with the wreckage? I hope the debate we have—let me just say in this discussion about running for President, I have seen so much dishonesty with respect to the television commercials that have been run and the making of issues and about the phrases that are used. It is unbelievable to me. The one thing I will say I admire is that BARACK OBAMA—whom I have campaigned with in this country—is talking about the future, about issues, and he is talking about raising up this country, which I think is so important at this point. We need that leadership now.

Mr. President, with that, I am going to speak later this week on some other issues. I wanted to talk today about the issue of the two points that I think have dramatically weakened this country: One, the salesmanship of the Financial Modernization Act. Eight of us—myself included—voted against that in the Senate, believing that it would damage this country, and indeed it has. Second, the arrival of George W. Bush, who decided he didn't believe in Government regulation. We now see the carnage and wreckage that has resulted from that. This country deserves better and will get better, in my judgment.

Mr. WHITEHOUSE. Mr. President, as we debate legislation to authorize more than $600 billion for our Armed Forces, we have a responsibility to the taxpayers who foot the bill to make sure that money is being used as carefully and as wisely as possible. Today I rise in support of an amendment offered by Senator SANDERS and cosponsored by myself and Senator FEINGOLD that exposes unnecessary and wasteful spending within the Department of Defense and offers a solution.

From storage warehouses to assembly lines, the Department of Defense is sitting on billions of dollars in parts and supplies that are in excess of the military's requirements—everything from jet engines to springs to fuel tanks.

The Army, Navy, Air Force, and other Department of Defense agencies currently possess $30.63 billion of unneeded spare parts, in addition to $346 million of excess spare parts that are on-order—parts that are still being produced or delivered, but that the military already knows it doesn't need. The Air Force has $18.7 billion of excess spare parts on hand; the Navy has $7.7 billion, and the Army has $4.21 billion. On-order excess spare parts are at lower but still unacceptable levels. The Air Force has $1.3 billion in excess parts on-order; the Navy has $130 million, and the Army has $110 million.

It gets worse. Branches of the Armed Forces have millions of dollars of spare parts on-order that they have already decided they will dispose of when they arrive. If a retailer like Target or Best Buy or Kmart controlled its inventory so poorly that it had $307.48 million worth of items on-order that it knew it would have to dispose of immediately upon arrival, that company would quickly go bankrupt. The Air Force has $235 million of spare parts marked for disposal; the Navy has $18.18 million, and the Army has $54.3 million. That's a nonsensical and unacceptable waste of taxpayers' money.

The Defense Department's inventory management systems are a big part of the problem: they are incompatible, duplicative, and ill-equipped to the task of managing such a massive volume of parts and supplies. Don't just take my word for it. Over the last decade, the General Accountability Office has repeatedly flagged these inventory management systems as ''high-risk,'' vulnerable to fraud, waste, abuse, and mismanagement. If American companies can get this right, there is no reason that America's military can't.

Waste in excess inventory is part of a bigger problem of waste in the Department of Defense. The distinguished chairman of the Armed Services Committee, Senator LEVIN, recently cited a GAO report detailing $295 billion in cost overruns and an average 21-month delay on Pentagon weapons systems. The GAO report recommends strong congressional oversight of defense programs. To that end, the reporting mechanisms of the Sanders-Feingold-Whitehouse amendment increase oversight and prevent waste in the Department of Defense.

Our amendment calls on the Department of Defense to cut waste and fix the problem. This measure would require the Secretary of Defense to certify to Congress that the Army, Navy, Air Force, and Defense Logistics Agency have reduced by half their spare parts that are on-order and already labeled as excess. Until this certification is completed, the amendment would withhold $100 million from the defense budget for military spare parts.

Our amendment would also require the Department of Defense to come up with a plan to reduce the acquisition of unnecessary spare parts and improve its inventory systems. It would then require quarterly progress reports to Congress, including reports on the levels of excess inventory that are on hand and on-order.

Our troops deserve the best equipment and the best supplies we can give them to help them do their jobs and keep us safe. Leaving billions of dollars of spare parts to rust away in warehouses just doesn't serve that purpose. I urge my colleagues to support this commonsense, important amendment.

Ms. MIKULSKI. Mr. President, I rise today to express my thanks and appreciation to Chairman LEVIN and Senator WARNER for their outstanding efforts on the bipartisan National Defense Authorization Act for Fiscal Year 2009.

I would especially like to recognize Senator WARNER for his stewardship of this bill this year, and his determined role managing the bill on the floor over the last few weeks. Senator WARNER has played a role in most of the Defense authorization bills over the last 40 years. His sage counsel and steady hand on the rudder are an invaluable asset to the Senate in meeting our commitment to our men and women in uniform.

I would like to thank the committee for supporting $1.3 billion in military construction and base realignment and closure funding for Maryland's military installations. This funding is especially critical to ensuring that the BRAC transition of Walter Reed Army Hospital to the National Military Medical Center in Bethesda, MD, stays on track. We owe it to our wounded warriors and their families to give them world class medical facilities that they deserve.

This bill also makes great strides in continuing to focus on the Dole-Shalala recommendations that outline the best courses of action for improving the quality of care for our wounded warriors. This bill requires the Department of Defense to establish Post Traumatic Stress Disorder and Traumatic Brain Injury Centers of Excellence and conduct pilot programs to better treat these disorders. The bill will also require that the Department of Defense to develop uniform standards and procedures for disability evaluations of recovering servicemembers across military departments. I commend the committee for continuing to make quality military health care a priority.

This legislation provides vitally important increases in authorized funding for our National Guard. This bill shows a clear and substantial commitment to restore and improve the homeland defense capabilities and readiness of our National Guard. I am very pleased that the committee increased the authorization of the Army's procurement budget by $391.2 million for dual-purpose equipment in support of National Guard readiness. In addition to giving our National Guard the tools and equipment they need, this bill also enhances Guard and Reserve family support programs.

In closing, I commend Chairman LEVIN, Senator WARNER, and their staffs for putting together a bill of which we can all be proud. This bill sends the message that we in the Senate remain committed to supporting our troops, both in combat and at home.

Mr. REED. Mr. President, I commend the work of my colleagues on the Armed Services Committee on this important legislation which I hope President Bush will sign into law prior to the start of the fiscal year. In this tremendous time of transition for our military, we owe them a law that will enable the DOD to execute this year's budget efficiently and effectively.

This bill provides a budget that allows the DOD to plan for future threats, combat current threats, and provide for the welfare of our brave veterans both past and future.

It should also be noted that this year's bill and the authorization bills from the preceding 28 years could not have been completed without the statesmanship and the strong bipartisan leadership provided by Senator JOHN WARNER. This will be Senator WARNER's final authorization bill during his nearly 30 years on the Senate Armed Services Committee, on which he also served as chairman and ranking member. In his nearly 60 years of serving our country both in and out of uniform, he has always upheld his commitment to our brave service men and women with the highest standards of honor and integrity

I would first like to point out a few of the highlights of the National Defense Authorization Act currently being considered:

Authorizes a much needed 3.9 percent across-the-board pay raise for the brave men and women of our armed forces. This pay raise is a half percent higher than that requested by President Bush;

Fully funds Army readiness and depot maintenance programs to ensure that forces preparing to deploy are properly trained and equipped;

Authorizes $26.1 billion for the Defense Health Program, which includes

the $1.2 billion necessary to cover the rejection of the administration proposal to raise TRICARE fees;

Requires the Secretaries of Defense and VA to continue the operations of the Senior Oversight Committee to oversee implementation of Wounded Warrior initiatives; and

Fully funds the eight ships requested in the President's budget, including full funding for the third ZUMWALT class destroyer. This ship is critical to maintaining the technical superiority that our Navy has enjoyed on the oceans throughout the world. The future maritime fleet must be adaptable, affordable, survivable, flexible and responsive. The ZUMWALT class provides all of these characteristics as a multimission surface combatant, tailored for land attack and littoral dominance. It will provide independent forward presence, allow for precision naval gun fire support of Joint forces ashore, and through its advanced sensors ensure absolute control of the combat air space. All of this capability is based on today's proven and demonstrated technologies. We cannot build the same ships that we did 20 years ago and hope to defeat tomorrow's emerging threats.

This year I once again had the honor of serving as the chairman of the Emerging Threats Subcommittee. Senator DOLE served as the ranking member of the subcommittee and working together, our subcommittee produced good results in the bill now before the Senate. The Emerging Threats and Capabilities Subcommittee is responsible for looking at new and emerging threats to our security, and considering appropriate steps we should take to develop new capabilities to face these threats.

In preparation for our markup, Senator LEVIN, the distinguished chairman of the committee, provided guidelines for the work of the committee, including the following two items:

Improve the ability of the armed forces to counter nontraditional threats, including terrorism and the proliferation of weapons of mass destruction, and

Promote the transformation of the armed forces to deal with the threats of the 21st century.

In response, our subcommittee recommended initiatives in a number of areas within our jurisdiction. These areas include:

Supporting crucial nonproliferation programs and other efforts to combat Weapons of Mass Destruction (WMD);

Supporting advances in medical research and technology to treat such conditions as traumatic brain injury and post-traumatic stress disorder;

Increasing investments in new energy technologies such as fuel cells, hybrid engines, and alternate fuels to increase military performance and reduce costs;

Increasing investments in advanced manufacturing technologies to strengthen our defense industrial base so that it can rapidly and efficiently produce the materiel needed by our Nation's warfighters; and

Increasing investments in research at our Nation's small businesses, Government labs, and universities so that we have the most innovative minds in our country working to enhance our national security.

Specifically, some notable initiatives in this bill that originated in the Emerging Threats and Capabilities Subcommittee include:

Authorizing more than $120 million in the area of nonproliferation and combating weapons of mass destruction, including $50 million for denuclearization activities in North Korea; $20 million for the Cooperative Threat Reduction program; and more than $50 million for chemical and biological defense programs.

Consolidating funding for the Mixed Oxide, MOX, program in the National Nuclear Security Administration, NNSA, as a nonproliferation activity, rather than as part of the nuclear energy budget as the budget requested.

Clarifying that excess fissile material disposition is an NNSA nonproliferation responsibility.

Establishing a nonproliferation scholarship fund to deal with shortages in technical and other fields such as radiochemistry and nuclear forensics.

Adding $25 million to nonproliferation research & development, R&D, for nuclear forensics and other R&D activities.

Authorizing the Cooperative Threat Reduction Program and providing an additional $10 million for new initiatives outside of the former Soviet Union, $1 million for Russian chemical weapons demilitarization, and $9 million for nuclear weapons storage security in Russia to complete the work under the Bratislava agreement.

The bill also includes a number of legislative provisions that will enhance the Department's ability to procure and use critical defense technologies, such as:

Legislation that would implement recommendations of the National Academy of Sciences to help ensure that the DOD develops and procures printed circuit boards that are trustworthy and reliable for use in defense systems;

Legislation that would implement the recommendations of the Defense Science Board seeking to enhance the Department's ability to ensure that microelectronics procured from commercial sources, including foreign sources, and embedded throughout defense systems are reliable and trustworthy; and

Legislation requiring the development of a joint government-industry battery technology roadmap to ensure that a healthy and innovative defense industrial base for batteries exists in the United States, to support a variety of requirements in military vehicles, computers, and other equipment.

Relative to science and technology funding levels, the bill would increase the Department's investments in innovative science and technology programs by nearly $400 million to over $11.8 billion; and fully support the Secretary of Defense's initiative to increase university defense basic research funding and increase the level by nearly $50 million over the President's request.

In the area of force protection, the bill includes a provision that would increase the amount and quality of testing performed on force protection equipment, such as body armor, helmets, and vehicle armor, before it is deployed to the field, to ensure that our soldiers and marines have the best available equipment and protection.

In order to enhance our ability to combat international terrorist groups, the bill would fully fund the $5.7 billion budget request, and add over $20 million for items to help find and track terrorists, including intelligence, surveillance and reconnaissance packages; extend authorization to the Special Operations Command to train and equip forces supporting or facilitating special operations forces in ongoing military operations, and increase the funding available for this activity; and increase funding for DOD's Regional Defense Combating Terrorism Fellowship.

Concerning counterdrug programs, the bill includes a provision that would extend the authority to use counterdrug funds to support the Government of Colombia's unified campaign against narcotics cultivation and trafficking, and against terrorist organizations involved in such activities. It also includes a provision that would extend the Department's authority to use counterdrug funds to support law enforcement agencies conducting counterterrorist activities.

This is a good bill. The members of the committee and the committee staff have worked many hours to get this bill to the floor. We are a nation at war and the military needs this bill. I urge my colleagues to work together to pass it so that we can conference with the House and send it on to the President for his signature.

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

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

## MORNING BUSINESS

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

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

## CHICAGO FLOODING

Mr. DURBIN. Mr. President, today President Bush was in Texas to see firsthand the devastation from Hurricane Ike. Unfortunately, this is not the first time, nor will it be the last time, that Mother Nature has shown us her worst. My heart goes out to the millions of displaced residents and evacuees who are anxious to return home, who are without power, who must depend on others for food and water and other necessities, and who face the long hard task of rebuilding their homes and communities.

We know a little of what that is like in Illinois. In June, the Midwest was hit by massive flooding, some of the worst we have seen since the Great Flood of 1993. Experts called it a 200 to 500-year event. It left entire communities underwater, broke levees, and washed away roads, bridges, and millions of acres of cropland. The damage could have been worse, if Illinoisans had not worked so long and so hard to fill sandbags, fortify levees, and stand their ground against the rising waters of the Mississippi.

But sometimes weather-related disasters strike with no warning and you don't have time to prepare for the worst. Over the weekend my State was hit by the sixth major flooding event in the last year alone when 3 days of rain dumped more than 100 billion gallons of water on the city of Chicago—two or three times the normal amount. More than 7 inches of rain fell on the Chicago area on Saturday alone, setting a new 1-day record at O'Hare. In the suburbs, some of the worst flooding was along the Des Plaines River, which crested at near-record levels, displaced thousands of residents, and flooded hundreds of homes.

On Monday I had a chance to see for myself the damage in Albany Park, a neighborhood in Chicago that was one of the hardest hit areas. Thirty-ninth Ward Alderman Margaret Laurino accompanied me as I met with residents like Aaron Gadiel, who waded through knee-high water in his fishing boots and searched his home to see if he could salvage clothing for his kids. I want to commend the local and city officials I saw going door to door with pumps, checking to see if residents needed help, and pitching in wherever they were needed. I especially want to thank Terry O'Brien, president of the Metropolitan Water Reclamation District, and Ray Orozco, executive director of Chicago's Office of Emergency Management and Communications, OEMC, for taking the time to show me the extent of the flood damage.

The same weather system that dumped billions of gallons of rain on Chicago also caused the Mississippi and Illinois Rivers to swell in other parts of Illinois. U.S. Army Corps officials are keeping a close eye on the system of levees and dams that protect these communities to make sure that these residents don't experience a repeat of the June floods.

Today the skies are clearing over Chicago. Water levels are falling, roads are reopening and some folks are returning home. But the recordbreaking rains that evacuated thousands, left four dead, closed roads and flooded homes have left more than a watermark. As Des Plaines Mayor Tony Arredia rightly pointed out, we still have cleaning up to do. I am committed to making sure that Illinoisans do not face this task alone.

## TRIBUTE TO SECOND LIEUTENANT HOWARD CLIFTON ENOCH, JR.

Mr. MCCONNELL. Mr. President, I rise today because after more than 60 years, a Kentucky family has been reunited with a father and grandfather they never knew. And an American hero is coming home.

Second Lieutenant Howard Clifton Enoch, Jr., U.S. Army Air Forces, was last seen on March 19, 1945, when he took off in his P–51D Mustang single-seat fighter plane for a mission over Germany. He crashed while engaging enemy aircraft near the city of Leipzig.

His remains could not be immediately recovered, and once Soviet forces took over the part of that country that would become East Germany—including the area around Leipzig recovery became impossible for decades.

Howard Enoch III was born 3 months after his father's plane crashed. He grew up in Marion, KY, never knowing his namesake. Now, thanks to the work of some dedicated men and women in the Department of Defense, his father's remains have been identified.

A German researcher originally identified the crash site, and notified our Government. The Joint POW/MIA Accounting Command, the arm of the Department of Defense charged with recovering the remains of our lost heroes, sent a recovery crew to Germany. They used mitochondrial DNA analysis to identify the remains, and in 2007 they contacted Howard Enoch III with the astonishing news.

Howard Enoch III's two young daughters gained new insight into their grandfather. And the discovery brought Howard in touch with a cousin he never knew, who had served alongside Second Lieutenant Enoch in Europe in World War II.

Now Second Lieutenant Enoch will be buried at Arlington National Cemetery, alongside America's greatest heroes. And the Enoch family can know that after valiant service to his country, six decades later, a soldier will finally rest in peace. I wish to offer my deepest appreciation to Howard Enoch III for his father's service and his family's sacrifice on behalf of our country.

Earlier this month, the Bluegrass Chapter of Honor Flight paid special tribute to Second Lieutenant Enoch at the World War II Memorial in our Nation's Capital. Honor Flight is a nonprofit organization which transports World War II veterans from anywhere in the country to see the memorial, free of charge.

Honor Flight and its volunteers, many of whom are veterans themselves, are doing a great service for our Nation by allowing these veterans to make this important trip. Second Lieutenant Enoch never got a chance to visit the World War II Memorial. But it was built for him, and his thousands of fellow soldiers. So I am glad that 63 years later, Honor Flight has recognized his service.

For a long time, the Enoch family has felt not only the loss of Second Lieutenant Enoch, but also doubt about his final fate. I am pleased for them that that doubt is over. They can take comfort that 2LT Howard Clifton Enoch, Jr. will lie among Arlington's heroes. And they can take pride that this U.S. Senate honors his service and his sacrifice.

## REPORT ON THE TOMB OF THE UNKNOWNS

Mr. AKAKA. Mr. President, I am pleased to share a report with our colleagues, which I received last month from the Departments of the Army and Veterans Affairs. The report addresses the Army's and VA's plans for repairing and preserving the Tomb Monument at the Tomb of the Unknowns. As many of our colleagues may know and appreciate, the Tomb is a national monument of great historical significance, especially to our Nation's veterans, located on the hallowed ground of Arlington National Cemetery.

The Tomb Monument, which sits above the tombs for the unknowns from World War I, World War II, and the Korean conflict, has developed several cracks along the natural faults in the marble. For some time, there has been discussion of possibly replacing the original monument. However, prior to taking this option, I wanted to ensure that at the very least decision-makers considered options for preserving, rather than replacing the monument. While I understand the concerns about the cracks in the Tomb Monument, I along with many others believe that our national monuments are not diminished by signs of their age. Many of our most treasured American symbols, from the Liberty Bell to the Star-Spangled Banner, are physically worn and weathered. This does not diminish their value or significance. I would argue that the same is true for the Tomb of the Unknowns.

It is our Nation's tradition to preserve our historic national symbols. We must protect them from the notion that they can be easily discarded or replaced. With those concerns in mind, my colleague from Virginia, Senator WEBB, and I successfully added language requiring a report on plans for the Tomb Monument to last year's National Defense Authorization Act. The joint report acknowledges that replacement of the Tomb Monument could have a negative impact on the historic significance of the Tomb of the Unknowns.

I am pleased that the joint report outlined several alternatives to replacing the Tomb Monument. I urge the Departments, in their respective capacities, to pursue the best means of preserving the Tomb Monument for future generations of veterans and Americans. While the Departments may have to consider partial or full replacement of the Tomb Monument at some future date, at this time there are still a number of other options which should be pursued.

Mr. President, I ask unanimous consent that letters and the Executive Summary of the report be printed in the RECORD.

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

DEPARTMENT OF THE ARMY, OFFICE OF THE ASSISTANT SECRETARY, CIVIL WORKS,
*Washington, DC, August 11, 2008.*

Hon. RICHARD B. CHENEY,
*President of the Senate,*
*U.S. Capitol, Washington, DC.*

DEAR MR. PRESIDENT: In accordance with Section 2873 of the National Defense Authorization Act for Fiscal Year 2008, enclosed is a report on alternative measures to address cracks in the monument at the Tomb of the Unknowns at Arlington National Cemetery (ANC). The report contains information about the monument in response to the provisions in subsection 2873(a) with respect to (1) plans considered for replacement and disposal; (2) the feasibility and advisability of repair; (3) current maintenance and preservation efforts; (4) an explanation of why no repair attempt has been made since 1989; (5) comprehensive cost estimates for replacement and repair; and (6) assessment of its structural integrity.

Options for addressing the cracks are described in the report. A decision on a final course of action will not be made until our responsibilities are fulfilled under Section 106 of the National Historic Preservation Act and the National Environmental Policy Act. Also, subsection 2873(b) states that ''[t]he Secretary of the Army and the Secretary of Veterans Affairs may not take any action to replace the monument at the Tomb of the Unknowns at Arlington National Cemetery, Virginia, until 180 days after the date of the receipt by Congress of the report required by subsection (a).'' According to subsection 2873(c), the limitation in subsection 2873(b) does not prevent undertaking repair of the monument or acquiring marble for the repair, subject to the availability of appropriations. Accordingly, while long-term options continue to be explored, experts in the field of marble maintenance and conservation are being consulted to assist ANC in the development and implementation of a maintenance and repair plan to ensure that the existing marble is appropriately protected.

In accordance with a 2004 Memorandum of Understanding between the Department of the Army and the Department of Veterans Affairs (VA), the role of VA is limited to procurement, transportation, and sculpting of a replacement for the base, main die block, and cap of the Tomb Monument, should ANC determine that replacement is required. VA has no role in determining whether the Monument should be replaced, or in its maintenance and repair.

The Office of Management and Budget advises that, from the standpoint of the Administration's program, there is no objection to the presentation of this report for consideration of the Congress.

Very truly yours,

JOHN PAUL WOODLEY, JR.,
*Assistant Secretary of the Army (Civil Works).*

WILLIAM F. TUERK,
*Under Secretary for Memorial Affairs, Department of Veterans Affairs.*

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DEPARTMENT OF THE ARMY, OFFICE OF THE ASSISTANT SECRETARY, CIVIL WORKS,
*Washington, DC, August 11, 2008.*

Hon. NANCY PELOSI,
*Speaker, House of Representatives,*
*U.S. Capitol, Washington, DC.*

DEAR MADAM SPEAKER: In accordance with Section 2873 of the National Defense Authorization Act for Fiscal Year 2008, enclosed is a report on alternative measures to address cracks in the monument at the Tomb of the Unknowns at Arlington National Cemetery (ANC). The report contains information about the monument in response to the provisions in subsection 2873 (a) with respect to (1) plans considered for replacement and disposal; (2) the feasibility and advisability of repair; (3) current maintenance and preservation efforts; (4) an explanation of why no repair attempt has been made since 1989; (5) comprehensive cost estimates for replacement and repair; and (6) assessment of its structural integrity.

Options for addressing the cracks are described in the report. A decision on a final course of action will not be made until our responsibilities are fulfilled under Section 106 of the National Historic Preservation Act and the National Environmental Policy Act. Also, subsection 2873(b) states that ''[t]he Secretary of the Army and the Secretary of Veterans Affairs may not take any action to replace the monument at the Tomb of the Unknowns at Arlington National Cemetery, Virginia, until 180 days after the date of the receipt by Congress of the report required by subsection (a).'' According to subsection 2873(c), the limitation in subsection 2873(b) does not prevent undertaking repair of the monument or acquiring marble for the repair, subject to the availability of appropriations. Accordingly, while long-term options continue to be explored, experts in the field of marble maintenance and conservation are being consulted to assist ANC in the development and implementation of a maintenance and repair plan to ensure that the existing marble is appropriately protected.

In accordance with a 2004 Memorandum of Understanding between the Department of the Army and the Department of Veterans Affairs (VA), the role of VA is limited to procurement, transportation, and sculpting of a replacement for the base, main die block, and cap of the Tomb Monument, should ANC determine that replacement is required. VA has no role in determining whether the Monument should be replaced, or in its maintenance and repair.

The Office of Management and Budget advises that, from the standpoint of the Administration's program, there is no objection to the presentation of this report for consideration of the Congress.

Very truly yours,

JOHN PAUL WOODLEY, JR.,
Assistant Secretary of the Army (Civil Works).

WILLIAM F. TUERK,
Under Secretary for Memorial Affairs, Department of Veterans Affairs.

REPORT ON ALTERNATIVE MEASURES TO ADDRESS CRACKS IN THE MONUMENT AT THE TOMB OF THE UNKNOWNS AT ARLINGTON NATIONAL CEMETERY, VIRGINIA

EXECUTIVE SUMMARY

Alternative measures are being explored to address cracks in the Tomb of the Unknowns Monument at Arlington National Cemetery (ANC). The Tomb Monument is the four-piece marble object located over the vault containing the remains of the World War I Unknown, and is a component of the Tomb of the Unknowns. Section 2873 of the National Defense Authorization Act for Fiscal Year 2008, Public Law 110–181 (Act), directed the Secretary of the Army and the Secretary of Veterans Affairs to submit a joint report to Congress on plans to address the cracks with respect to (1) replacing the Monument and its disposal, if it were removed; (2) an assessment of the feasibility and advisability of repairing the Monument rather than replacing it; (3) a description of current efforts to maintain and preserve the Monument; (4) an explanation of why no attempt has been made since 1989 to repair it; (5) comprehensive estimates of the cost of replacement and the cost of repair; and (6) an assessment of its structural integrity.

In 1963, ANC initiated a program of monitoring and investigation of the Monument in response to the development of two parallel cracks in its main block. The cracks, which now measure nearly 48 feet in combined length, appear on all four sides of the Monument and extend almost entirely through the block. According to stone conservation experts, the cracks are not compromising the structural integrity of the stone and are repairable. ANC repaired the cracks twice, once in 1975, and again in 1989, and is now in the process of initiating another repair of the Monument. The results of studies and monitoring of the Monument over the past four decades confirm that, despite repairs, the cracks continue to lengthen and widen, which is perhaps a natural phenomenon of the material. Since 1990, a third crack has become visible, whose origins are uncertain. The Monument can be repaired again, but its condition will continue to deteriorate. Although it is not known when the Monument will reach the point of being beyond repair, the natural aging process that weathers and cracks outdoor marble makes it likely that it will need to be replaced at some point in the future. The cracking and minor erosion of the Monument have led ANC to consider various treatment options, including repairing the cracks, obtaining and stockpiling marble for future replacement of the monument, and the immediate replacement of its cap, die block, and base.

The impetus to consider various treatment options for the Monument is the culmination of over 40 years of deliberation, starting with the first report on the cracks in the early 1960s, and continuing through the two previous repairs. In evaluating whether to continue to maintain and repair the Monument or replace it, ANC is giving full consideration to its historic significance. ANC recognizes the associative qualities that link the Monument to World War I and its veterans. ANC also realizes that the Tomb of the Unknowns has come to memorialize all of the service men and women that have sacrificed their lives for this country in subsequent military conflicts that continue today. In this regard, the Tomb of the Unknowns has significance, beyond its historic significance, that transcends the past and present to the future. As its steward, ANC is responsible to do what it can to ensure that the Monument stands, as unflawed and perfect as possible, in honor of the sacrifices that it represents.

To preserve the solemn dignity of the Monument for those that it honors and for

future generations of Americans, ANC is considering alternative actions that could be taken. Repair of the Monument is a viable alternative, as verified by experts in the field of stone conservation. Replacement is another alternative under consideration, due to the uncertainty of obtaining suitable marble in the future. Only marble with specific qualities can be used for replacement, so the current and future existence and availability of such marble is of concern. Suitable marble is available today, but may not be in the future, and there will never be a greater quantity of suitable marble in the future than there is now. It is primarily for this reason that ANC is considering replacement of the Monument as one potential long-term solution.

There is more information in this report on the potential replacement option than there is for other options, because the replacement option is much more complex than the other options under consideration. Also, the potential replacement option has undergone the most scrutiny through the Section 106 review process. The preponderance of information on replacement should not be construed as favoring this option over the other options under consideration.

In response to ANC's request to provide a Tomb Monument replacement, the Department of Veterans Affairs (VA) entered into a Memorandum of Understanding (MOU) with the Department of the Army in 2004 that outlines respective responsibilities. VA will be responsible for the procurement, transportation, and sculpting of a replacement for the base, main die block, and cap of the Tomb Monument when and if Army decides replacement is necessary. Both agencies have compliance requirements under Section 106 of the National Historic Preservation Act and the National Environmental Policy Act (NEPA). No decision on a final course of action will be made until both agencies fulfill their respective responsibilities under both of these laws.

Furthermore, subsection 2873(b) of the Act states that ''The Secretary of the Army and the Secretary of Veterans Affairs may not take any action to replace the monument at the Tomb of the Unknowns at Arlington National Cemetery, Virginia, until 180 days after the date of receipt by Congress of the report required by subsection (a).'' According to subsection 2873(c), the limitation in subsection 2873(b) does not prevent the repair of the current Monument or the acquisition of blocks of marble. Accordingly, while long-term options such as continued repair, procurement of replacement marble, and immediate replacement continue to be explored, ANC is working with experts in the field of marble maintenance and conservation to develop and implement a maintenance and repair plan to ensure that the existing marble is appropriately protected. ANC will take no action to acquire replacement blocks of marble until after Section 106 and NEPA requirements are complete.

## STATEMENT OF MANAGERS—S. 3406

Mr. HARKIN. Mr. President, I ask unanimous consent that this Statement of Managers to S. 3406 be reprinted in the RECORD with its endnotes.

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

STATEMENT OF THE MANAGERS TO ACCOMPANY S. 3406, THE AMERICANS WITH DISABILITIES ACT AMENDMENTS ACT OF 2008

Contents:



### I. PURPOSE AND SUMMARY OF THE LEGISLATION

The purpose of S. 3406, the ''ADA Amendments Act of 2008'' is to clarify the intention and enhance the protections of the Americans with Disabilities Act of 1990, landmark civil rights legislation that provided ''a clear and comprehensive national mandate for the elimination of discrimination on the basis of disability.''[1] In particular, the ADA Amendments Act amends the definition of disability by providing clarification and instruction about the terminology used in the definition, by expanding the definition, and by rejecting several opinions of the United States Supreme Court that have had the effect of restricting the meaning and application of the definition of disability.

S. 3406 is the product of an extensive bipartisan effort that included many hours of meetings and negotiation by legislative staff as well as by stakeholders including the disability, business, and education communities. In addition, two hearings were held in the Senate Health, Education, Labor, and Pensions Committee to explore the issues addressed in this legislation. The goal has been to achieve the ADA's legislative objectives in a way that maximizes bipartisan consensus and minimizes unintended consequences.

This legislation amends the Americans with Disabilities Act of 1990 by making the changes identified below.

Aligning the construction of the Americans with Disabilities Act with Title VII of the Civil Rights Act of 1964, The bill amends Title I of the ADA to provide that no covered entity shall discriminate against a qualified individual ''on the basis of disability.''

The bill maintains the ADA's inherently functional definition of disability as a physical or mental impairment that substantially limits one or more life activities; a record of such impairment; or being regarded as having such an impairment. It clarifies and expands the definition's meaning and application in the following ways.

First, the bill deletes two findings in the ADA which led the Supreme Court to unduly restrict the meaning and application of the definition of disability. These findings are that there are ''some 43,000,000 Americans have one or more physical or mental disabilities'' and that ''individuals with disabilities are a discrete and insular minority.'' The Court treated these findings as limitations on how it construed other provisions of the ADA. This conclusion had the effect of interfering with previous judicial precedents holding that, like other civil rights statutes, the ADA must be construed broadly to effectuate its remedial purpose. Deleting these findings removes this barrier to construing and applying the definition of disability more generously.

Second, the bill affirmatively provides that the definition of disability ''shall be construed in favor of broad coverage of individuals under this Act, to the maximum extent permitted by the terms of this Act.''[2] It retains the term ''substantially limits'' from the original ADA definition but makes it clear that this is intended to be a less demanding standard than that enunciated by the U.S. Supreme Court in Toyota Motor Manufacturing, Kentucky, Inc. v. Williams.[3] With this rule of construction and relevant purpose language, the bill rejects the Supreme Court's holding in Toyota v. Williams that the terms ''substantially'' and ''major'' in the definition of disability must be ''be interpreted strictly to create a demanding standard for qualifying as disabled,''[4] as well as the Court's interpretation that ''substantially limits'' means ''prevents or severely restricts.''[5]

Third, the bill prohibits consideration of mitigating measures such as medication, assistive technology, accommodations, or modifications when determining whether an impairment constitutes a disability. This provision and relevant purpose language rejects the Supreme Court's holdings in Sutton v. United Air Lines[6] and its companion cases[7] that mitigating measures must be considered.[8] The bill also provides that impairments that are episodic or in remission are to be assessed in an active state.

Fourth, the bill provides new instruction on what may constitute ''major life activities.'' It provides a non-exhaustive list of major life activities within the meaning of the ADA. In addition, the bill expands the category of major life activities to include the operation of major bodily functions.

Fifth, the bill removes from the third ''regarded as'' prong of the disability definition the requirement that an individual demonstrate that he or she has, or is perceived to have, an impairment that substantially limits a major life activity. Under the bill, therefore, an individual can establish coverage under the law by showing that he or she has been subjected to an action prohibited under the Act because of an actual or perceived physical or mental impairment. Because the bill thus broadens application of this third prong of the disability definition, entities covered by the ADA will not be required to provide accommodations or to modify policies and procedures for individuals who fall solely under the third prong. Such entities will, however, still be subject to discrimination claims.

Finally, the bill clarifies that the agencies that currently issue regulations under the ADA have regulatory authority related to the definitions contained in Section 3. Conforming amendments to Section 7 of the Rehabilitation Act of 1973 are intended to ensure harmony between federal civil rights laws.

### II. BACKGROUND AND NEED FOR LEGISLATION

When Congress passed the ADA in 1990, it adopted the functional definition of disability from the Section 504 of the Rehabilitation Act of 1973,[9] in part, because after 17 years of development through case law the requirements of the definition were well understood. Within this framework, with its generous and inclusive definition of disability, courts treated the determination of disability as a threshold issue but focused primarily on whether unlawful discrimination had occurred.

More recent Supreme Court decisions imposing a stricter standard for determining disability had the effect of upsetting this balance. After the Court's decisions in Sutton that impairments must be considered in their mitigated state and in Toyota that there must be a demanding standard for qualifying as disabled, lower courts more often found that an individual's impairment did not constitute a disability. As a result, in too many cases, courts would never reach the question whether discrimination had occurred.

Thus, some 18 years later we are faced with a situation in which physical or mental impairments that would previously have been

found to constitute disabilities are not considered disabilities under the Supreme Court's narrower standard. These can include individuals with impairments such as amputation, intellectual disabilities, epilepsy, multiple sclerosis, diabetes, muscular dystrophy, and cancer. The resulting court decisions contribute to a legal environment in which individuals must demonstrate an inappropriately high degree of functional limitation in order to be protected from discrimination under the ADA.

The ADA Amendments Act rejects the high burden required in these cases and reiterates that Congress intends that the scope of the Americans with Disabilities Act be broad and inclusive. It is the intent of the legislation to establish a degree of functional limitation required for an impairment to constitute a disability that is consistent with what Congress originally intended, a degree that is lower than what the courts have construed it to be. In addition, the bill provides for application of this standard to a wider range of cases by expanding the category of major life activities. These steps, resulting from extensive bipartisan negotiation and discussion among legislators and stakeholders, are intended to provide for more generous coverage and application of the ADA's prohibition on discrimination through a framework that is more predictable, consistent, and workable for all entities subject to responsibilities under the ADA.

## III. Explanation of the Bill and Manager's Views

### OVERVIEW

The Americans with Disabilities Act of 1990 (''the ADA'') is a landmark statute that has fundamentally changed the lives of many millions of Americans with disabilities. The managers of this legislation were proud to be leaders in that effort that was accomplished in a deliberative careful manner that allowed for the development of a strong bipartisan coalition in both Houses of Congress and the Administration of President George H. W. Bush and led to Senate passage with a definitive vote of 91–6.

However, as discussed in more detail below, a series of Court decisions have restricted the coverage and diminished the civil rights protections of the ADA, especially in the workplace, by narrowing its definition of disability. As a result, lower court cases have too often turned solely on the question of whether the plaintiff is an individual with a disability rather than the merits of discrimination claims, such as whether adverse decisions were impermissibly made by the employer on the basis of disability, reasonable accommodations were denied inappropriately, or qualification standards were unlawfully discriminatory.

The managers have introduced the ADA Amendments Act of 2008 to restore the proper balance and application of the ADA by clarifying and broadening the definition of disability, and to increase eligibility for the protections of the ADA. It is our expectation that because this bill makes the definition of disability more generous, some people who were not covered before will now be covered. The strong bipartisan support for this legislation once again demonstrates the continuing bipartisan commitment to protecting the civil rights of individuals with disabilities among members of the Senate Committee on Health Education Labor and Pensions and the Senate as a whole.

The ADA Amendments Act renews our commitment to ensuring that all Americans with disabilities, including a new generation of disabled veterans who are just beginning to grapple with the challenge of living to their full potential despite the limitations imposed by their disabilities, are able to participate to the fullest possible extent in all facets of society, including the workplace. We acknowledge and applaud the substantial improvements in medical science and the courageous efforts of individuals with disabilities to overcome the impact of those disabilities, but in no way wish to exclude them thereby from protection under the ADA.

By retaining the essential elements of the definition of disability including the key term ''substantially limits'' we reaffirm that not every individual with a physical or mental impairment is covered by the first prong of the definition of disability in the ADA. An impairment that does not substantially limit a major life activity is not a disability under this prong. That will not change after enactment of the ADA Amendments Act, nor will the necessity of making this determination on an individual basis. What will change is the standard required for making this determination. This bill lowers the standard for determining whether an impairment constitute a disability and reaffirms the intent of Congress that the definition of disability in the ADA is to be interpreted broadly and inclusively.[10]

### FINDINGS AND PURPOSES

Given the importance the Court has placed upon findings and purposes particularly in civil rights statutes like the ADA, the ADA Amendments Act contains a detailed Findings and Purposes section that the managers believe gives clear guidance to the courts and that they intend to be applied appropriately and consistently. As described above, the legislation deletes two findings in the ADA that have been interpreted by the Supreme Court to require a narrow definition of disability. We continue to believe that individuals with disabilities ''have been faced with restrictions and limitations, subjected to a history of purposeful unequal treatment, and relegated to a position of political powerlessness in our society, based on characteristics that are beyond the control of such individuals and resulting from stereotypic assumptions not truly indicative of the individual ability of such individuals to participate in, and contribute to, society.''[11]

In addition to deleting the findings forming the basis of the Sutton and Toyota decisions, the bill states explicitly its purpose to reject the holdings in those cases (and their progeny), and to ensure broad coverage under the ADA. To be clear, the purposes section conveys our intent to clarify not only that ''substantially limits'' should be measured by a lower standard than that used in Toyota,[12] but also that the definition of disability should not be unduly used as a tool for excluding individuals from the ADA's protections.

The bill expresses the clear intent of Congress that the EEOC will revise its regulations that similarly improperly define the term ''substantially limits'' as ''significantly restricted''; again, this sets too high a standard.

The bill's purposes also reject the Supreme Court's holding that mitigating measures must be considered when determining whether an impairment constitutes a disability. With the exception of ordinary eyeglasses and contact lenses, impairments must be examined in their unmitigated state.

These purposes are specifically incorporated into the statute by the rule of construction providing that the term ''substantially limits'' shall be construed consistently with the findings and purposes of the ADA Amendments Act of 2008. This rule of construction, together with the rule of construction providing that the definition of disability shall be construed in favor of broad coverage of individuals sends a clear signal of our intent that the courts must interpret the definition of disability broadly rather than stringently.

### DEFINITION OF DISABILITY

In the ADA of 1990, Congress sought to protect anyone who experiences discrimination because of a current, past, or perceived disability. Under the ADA, there are three prongs of the definition of disability, with respect to an individual:

(1) a physical or mental impairment that substantially limits one or more of the major life activities of such individual;

(2) a record of such an impairment; or

(3) being regarded as having such an impairment.

This definition is of critical importance because as a threshold issue it determines whether an individual is covered by the ADA. The ADA Amendments Act retains the definition of disability but further defines and clarifies three critical terms within the existing definition (''substantially limits,'' ''major life activities,'' ''regarded as having such impairment'') and, under the rules of construction for the definition, adds several standards that must be applied when considering the definition of disability.

*Physical or mental impairment*

The bill does not provide a definition for the terms ''physical impairment'' or ''mental impairment.'' The managers expect that the current regulatory definition of these terms, as promulgated by agencies such as the U.S. Equal Employment Opportunity Commission (EEOC), the Department of Justice (DOJ) and the Department of Education Office of Civil Rights (DOE OCR) will not change.[13]

*Substantially limits*

We do not believe that the courts have correctly instituted the level of coverage we intended to establish with the term ''substantially limits'' in the ADA. In particular, we believe that the level of limitation, and the intensity of focus, applied by the Supreme Court in Toyota goes beyond what we believe is the appropriate standard to create coverage under this law.

We have extensively deliberated with regard to whether a new term, other than the term ''substantially limits'' should be used in this Act. For example, in its ADA Amendments Act, H.R.3195, the House of Representatives attempted to accomplish this goal by stating that the key phrase ''substantially limits'' means ''materially restricts'' in order to convey that Congress intended to depart from the strict and demanding standard applied by the Supreme Court in Sutton and Toyota.[14]

We have concluded that adopting a new, undefined term that is subject to widely disparate meanings is not the best way to achieve the goal of ensuring consistent and appropriately broad coverage under this Act. The resulting need for further judicial scrutiny and construction will not help move the focus from the threshold issue of disability to the primary issue of discrimination.

We believe that a better way is to express our disapproval of Sutton and Toyota (along with the current EEOC regulation) is to retain the words ''substantially limits,'' but clarify that it is not meant to be a demanding standard. In addition, we believe eliminating the source of the Supreme Court's decisions narrowing the definition and providing more appropriate findings and purposes for properly construing that definition will accomplish our goal without introducing novel statutory terms.

We believe that the manner in which we understood the intended scope of ''substantially limits'' in 1990 continues to capture our sense of the appropriate level of coverage

under this law for purposes of placing on employers and other covered entities the obligation of providing reasonable accommodations and modifications to individuals with impairments. As we described this in our committee report to the original ADA in 1989:

''A person is considered an individual with a disability for purposes of the first prong of the definition when [one or more of] the individual's important life activities are restricted as to the conditions, manner, or duration under which they can be performed in comparison to most people. A person who can walk for 10 miles continuously is not substantially limited in walking merely because on the eleventh mile, he or she begins to experience pain because most people would not be able to walk eleven miles without experiencing some discomfort.'' S. Rep. No. 101–116, at 23 (1989).

We particularly believe that this test, which articulated an analysis that considered whether a person's activities are limited in condition, duration and manner, is a useful one. We reiterate that using the correct standard—one that is lower than the strict or demanding standard created by the Supreme Court in Toyota—will make the disability determination an appropriate threshold issue but not an onerous burden for those seeking accommodations or modifications. At the same time, plaintiffs should not be constrained from offering evidence needed to establish that their impairment is substantially limiting.[15]

Thus, we believe that the term ''substantially limits'' as construed consistently with the findings and purposes of this legislation establishes an appropriate functionality test for determining whether an individual has a disability.

*Major life activities*

The bill provides significant new guidance and clarification on the subject of major life activities. First, a rule of construction clarifies that that an impairment need only substantially limit one major life activity to be considered a disability under the ADA. This responds to and corrects those courts that have required individuals to show that an impairment substantially limits more than one life activity. It is additionally intended to clarify that the ability to perform one or more particular tasks within a broad category of activities does not preclude coverage under the ADA.[16]

For purposes of clarity, the bill provides an illustrative list of ''major life activities'' including activities such as caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating and working. In addition, for the first time, the category of ''major life activities'' is defined to include the operation of major bodily functions, thus better addressing chronic impairments that can be substantially limiting. Major bodily functions include functions of the immune system, normal cell growth, digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine and reproductive functions.[17]

Both the list of major life activities and major bodily functions are illustrative and non-exhaustive, and the absence of a particular life activity or bodily function from the list does not create a negative implication as to whether such activity or function constitutes a ''major life activity'' under the statute.

Finally, we also want to illuminate one area which may be easily misunderstood, with respect to individuals with specific learning disabilities. When considering the condition, manner, or duration in which an individual with a specific learning disability performs a major life activity, it is critical to reject the assumption that an individual who has performed well academically cannot be substantially limited in activities such as learning, reading, writing, thinking, or speaking.

*Rules of construction on the definition of disability*

The bill further clarifies the definition of disability with a series of rules of construction. As discussed elsewhere, the rules of construction specifically require that the definition of disability be interpreted broadly and that the term ''substantially limits'' be interpreted consistent with this legislation. This construction is also intended to reinforce the general rule that civil rights statutes must be broadly construed to achieve their remedial purpose. In addition, the rules of construction provide that impairments that are episodic or in remission be assessed in their active state for purposes of determining coverage under the ADA.

*Mitigating measures*

The bill also prohibits consideration of the ameliorative effects of mitigating measures when determining whether an individual's impairment substantially limits major life activities, overturning the Supreme Court's decision in Sutton and its companion cases. This provision is intended to eliminate the situation created under current law in which impairments that are mitigated do not constitute disabilities but are the basis for discrimination. We expect that when such mitigating measures are ignored, some individuals previously found not disabled will now be able to claim the ADA's protection against discrimination.

The legislation provides an illustrative but non-comprehensive list of the types of mitigating measures that are not to be considered. This list also includes low vision devices, which are devices that magnify, enhance, or otherwise augment a visual image, such as magnifiers, closed circuit television, larger-print items, and instruments that provide voice instructions. The absence of any particular mitigating measure from this list should not convey a negative implication as to whether the measure is a mitigating measure under the ADA.

We also believe that an individual with an impairment that substantially limits a major life activity should not be penalized when seeking protection under the ADA simply because he or she managed their own adaptive strategies or received accommodations (including informal or undocumented ones) that have the effect of lessening the deleterious impacts of their disability.

The bill provides one exception to the rule on mitigating measures, specifying that ordinary eyeglasses and contact lenses are to be considered in determining whether a person has a disability. The rationale behind this exception is that the use of ordinary eyeglasses or contact lenses, without more, is not significant enough to warrant protection under the ADA. Nevertheless, if an applicant or employee is faced with a qualification standard that requires uncorrected vision (as the sisters in the Sutton case were), an employer will be required to demonstrate that the qualification standard is job-related and consistent with business necessity.

*Regarded as*

Under this bill, the third prong of the disability definition will apply to impairments, not only to disabilities. As such, it does not require a functional test to determine whether an impairment substantially limits a major life activity.

This section of the definition of disability was meant to express our understanding that unfounded concerns, mistaken beliefs, fears, myths, or prejudice about disabilities are often just as disabling as actual impairments, and our corresponding desire to prohibit discrimination founded on such perceptions. In 1990 we relied extensively on the reasoning of School Board of Nassau County v. Arline[18] that the negative reactions of others are just as disabling as the actual impact of an impairment. This legislation restates our reliance on the broad views enunciated in that decision and we believe that courts should continue to rely on this standard.

We intend and believe that the fact that an individual was discriminated against because of a perceived or actual impairment is sufficient. Thus, the bill clarifies that contrary to Sutton, an individual who is ''regarded as having such an impairment'' is not subject to a functional test. If an individual establishes that he or she was subjected to an action prohibited by the ADA because of an actual or perceived impairment—whether the person actually has the impairment or whether the impairment constitutes a disability—then the individual will qualify for protection under the Act.

This provision is subject to two important limitations. First, individuals with impairments that are transitory and minor are excluded from eligibility for the protections of the ADA under this prong of the definition, and second, the bill relieves entities covered under the ADA from the obligation and responsibility to provide reasonable accommodations and reasonable modifications to an individual who qualifies for coverage under the ADA solely by being ''regarded as'' disabled.

*Transitory and minor*

The bill contains an exception that clarifies that coverage for individuals under the ''regarded as'' prong is not available where an individual's impairment is both transitory (six months or less) and minor. Providing this exception responds to concerns raised by employer organizations and is reasonable under the ''regarded as'' prong of the definition because individuals seeking coverage under this prong need not meet the functional limitation requirement contained in the first two prongs of the definition. A similar exception for the first two prongs of the definition is unnecessary as the functional limitation requirement already excludes claims by individuals with ailments that are minor and short term.

*Accommodations*

The bill establishes that entities covered under the ADA do not need to provide reasonable accommodations under Title I or modify policies, practices, or procedures under Titles II or III when an individual qualifies for coverage under the ADA solely by being ''regarded as'' having a disability under the third prong of the definition of disability.

Under current law, a number of courts have required employers to provide reasonable accommodations for individuals who are covered solely under the ''regarded as'' prong.[19] In each of those cases, the plaintiffs were found not to be covered under the first prong of the definition of disability because of the overly stringent manner in which the courts had been interpreting that prong. Because of our strong belief that accommodating individuals with disabilities is a key goal of the ADA, some members continue to have reservations about this provision. However, we believe it is an acceptable compromise given our strong expectation that such individuals would now be covered under the first prong of the definition, properly applied.

DISCRIMINATION ON THE BASIS OF DISABILITY

The bill amends Section 102 of the ADA to mirror the structure of nondiscrimination protection provision in Title VII of the Civil Rights Act of 1964. It changes the language from prohibiting discrimination against a qualified individual ''with a disability because of the disability of such individual'' to prohibiting discrimination against a qualified individual ''on the basis of disability.'' This ensures that the emphasis in questions of disability discrimination is properly on the critical inquiry of whether a qualified person has been discriminated against on the basis of disability, and not unduly focused on the preliminary question of whether a particular person is a ''person with a disability.''

RULES OF CONSTRUCTION

*Benefits under state worker's compensation laws*

The bill provides that nothing in the Act alters the standards for determining eligibility for benefits under State worker's compensation laws or other Federal or State disability benefit programs.

*Fundamental alteration*

The bill reiterates that no changes are being made to the underlying ADA provision that no accommodations or modifications in policies are required when a covered entity can demonstrate that making such modifications would fundamentally alter the nature of the service being provided. This provision was included at the request of the higher education community and specifically includes ''academic requirements in postsecondary education'' among the types of policies, practices, and procedures that may be shown to be fundamentally altered by the requested modification or accommodation to reaffirm current law. It is included solely to provide assurances that the bill does not alter current law with regard to the obligations of academic institutions under the ADA, which we believe is already demonstrated in case law on this topic. Specifically, the reference to academic standards in postsecondary education is unrelated to the purpose of this legislation and should be given no meaning in interpreting the definition of disability.

*Claims of no disability*

The bill prohibits reverse discrimination claims by disallowing claims based on the lack of disability, (e.g., a claim by someone without a disability that someone with a disability was treated more favorably by, for example, being granted a reasonable accommodation or modification to services or programs). Our intent is to clarify that a person without a disability does not have the right under the Act to bring an action against an entity on the grounds that he or she was discriminated against ''on the basis of disability'' (i.e., on the basis of not having a disability).

REGULATORY AUTHORITY

In Sutton, the Supreme Court stated that ''[n]o agency . . . has been given authority to issue regulations implementing the generally applicable provisions of the ADA which fall outside Titles I–V.''[20] The bill clarifies that the authority to issue regulations is granted to the Equal Employment Opportunity Commission, the Attorney General, and the Secretary of Transportation and specifically includes the authority to issue regulations implementing the definition of disability as amended and clarified by this legislation.

We anticipate that the agencies charged with regulatory authority under the ADA will make any necessary modifications to their regulations to reflect the changes and clarifications embodied in the ADA Amendments Act, including the addition of major bodily functions as major life activities and the broadening of the ''regarded as'' prong. We also expect that the Equal Employment Opportunity Commission (EEOC) will revise the portion of its ADA regulations that defines ''substantially limits'' as ''unable to perform a major life activity. . . . or significantly restricted as to . . . particular major life activity. . . .'' given the clear inconsistency of that portion of the regulation with the intent of this legislation.

CONFORMING AMENDMENT

The bill ensures that the definition of disability in Section 7 of the Rehabilitation Act of 1973, which shares the same definition, is consistent with the ADA. The Rehabilitation Act of 1973 preceded the ADA in providing civil rights protections to individuals with disabilities, and in drafting the definition of disability in the ADA, the authors relied on the statute and implementing regulations of the Rehabilitation Act. Maintaining uniform definitions in the two federal statutes is important so that such entities will generally operate under one consistent standard, and the civil rights of individuals with disabilities will be protected in all settings. The ADA, under Title II and Title III, and Section 504 of the Rehabilitation Act provide overlapping coverage for many entities, including public schools, institutions of higher education, childcare facilities, and other entities receiving federal funds.

We expect that the Secretary of Education will promulgate new regulations related to the definition of disability to be consistent with those issued by the Attorney General under this Act. We believe that other current regulations issued by the Department of Education Office of Civil Rights under Section 504 of the Rehabilitation Act are currently harmonious with Congressional intent under both the ADA and the Rehabilitation Act.

CONCLUSION

We intend that that the sum of these changes will make the threshold definition of disability in the ADA—under which individuals qualify for protection from discrimination—more generous, and will result in the coverage of some individuals who were previously excluded from those protections.

We note that with the changes made by the ADA Amendments Act, courts will have to address whether an impairment constitutes a disability under the first and second, but not the third, prong of the definition of disability. The functional limitation imposed by an impairment is irrelevant to the third ''regarded as'' prong.

In general, individuals may find it easier to establish disability under this bill's more generous standard than under the Supreme Court's demanding standard. To repeat, we intend this bill to return the legal analysis to the balance that existed before the Supreme Court's Sutton and Toyota decisions. The determination of disability is a necessary threshold issue in many cases, but an appropriately generous standard on that issue will allow courts to focus primarily on whether discrimination has occurred or accommodations improperly refused.[21]

IV. LEGISLATIVE HISTORY AND COMMITTEE ACTION

Prior to introduction of the ADA Amendments Act of 2008 on July 31, 2008 with 55 original cosponsors the following actions occurred in the 110th Congress.

On July 26, 2007, Senator Tom Harkin introduced S. 1881, the ADA Restoration Act of 2007 together with Senator Arlen Specter. Senator Edward Kennedy, the Chairman of the Senate Heath, Education, Labor, and Pensions Committee cosponsored the legislation along with Senator Ted Stevens. The bill was referred to the Senate Health, Education, Labor, and Pensions Committee.

Similarly, on July 26, 2007, Representatives Steny H. Hoyer (D–MD) and F. James Sensenbrenner (R–WI) introduced H.R. 3195, the ADA Restoration Act of 2007, with 144 original cosponsors. The bill was referred to the House Committees on Education and Labor, Judiciary, Transportation and Infrastructure, and Energy and Commerce.

On October 4, 2007, the House Judiciary Committee held a hearing on H.R. 3195. Six witnesses appeared before the committee: Honorable Steny Hoyer (D–MD), House Majority Leader; Cheryl Sensenbrenner, Chair of the Board, American Association of People with Disabilities; Stephen Orr, Pharmacist (Plaintiff in Orr v. Wal-Mart); Michael Collins, Executive Director, National Council on Disability; Lawrence Lorber, Attorney, on behalf of the U.S. Chamber of Commerce; Chai Feldblum, Director, Federal Legislation Clinic and Professor of Law, Georgetown Law Center.

On November 15, 2007, the Senate HELP Committee held a hearing chaired by Senator Tom Harkin, ''Restoring Congressional Intent and Protections under the Americans with Disabilities Act.'' Five witnesses appeared before the committee: John D. Kemp, President, United States International Council on Disabilities; Dick Thornburgh, Former United States Attorney General and Counsel, Kirkpatrick & Lockhart; Stephen Orr, Pharmacist (Plaintiff in Orr v. Wal-Mart), Camille Olson, Labor and Employment Attorney, Seyfarth & Shaw; Chai Feldblum, Director, Federal Legislation Clinic and Professor of Law, Georgetown Law Center.

On January 29, 2008, the House Committee on Education and Labor held a hearing on H.R. 3195. Five witnesses appeared before the committee: Honorable Steny Hoyer (D–MD), House Majority Leader; Andrew Imparato, President and CEO, American Association of People with Disabilities; Carey McClure, Electrician (Plaintiff in McClure v. General Motors); Robert L. Burgdorf, Professor of Law, University of the District of Columbia; David K. Fram, Director, ADA & EEO Services, National Employment Law Institute.

On June 18, 2008, the House Committee on Education and Labor held a markup to consider H.R. 3195. An amendment was offered as a substitute to the original bill, and it was reported out of the Committee by a vote of 43 to 1.

On June 18, 2008, the Committee on the Judiciary held a markup to consider H.R. 3195. An amendment was offered as a substitute to the original bill, and it was reported out of the Committee by a vote of 27 to 0.

On June 25, 2008 the United States House of Representatives held a vote on H.R. 3195 and passed the legislation by a vote of 402–17.

On July 15, 2008, the Senate HELP Committee held a Roundtable: ''H.R. 3195 and Determining the Proper Scope of Coverage for the Americans with Disabilities Act.'' Eight individuals gave testimony before the committee: Samuel R. Bagenstos, Professor of Law, Washington University School of Law; Carey McClure, Electrician (Plaintiff in McClure v. General Motors); JoAnne Simon, Disability Rights Attorney; Sue Gamm, Elementary and Secondary Education Consultant; Terry Hartle, Senior Vice President, American Council on Education; Chai Feldblum, Professor, Federal Legislation Clinic, Georgetown University Law Center, Washington, DC; Michael Eastman, Executive Director of Labor Policy, U.S. Chamber of Commerce; Andrew Grossman, Senior Legal Policy Analyst, Heritage Foundation.

On July 31, 2008 Senators Tom Harkin and Orrin Hatch introduced S. 3406, The ADA

Amendments Act of 2008. The bill was placed on the Senate calendar (under general orders/pursuant to Rule XVI?).

V. APPLICATION OF THE LAW TO THE LEGISLATIVE BRANCH

Section 102(b)(3) of Public Law 104–1, the Congressional Accountability Act (CAA), requires a description of the application of this bill to the legislative branch. S. 3604 does not amend any act that applies to the legislative branch.

VI. REGULATORY IMPACT STATEMENT

The managers have determined that the bill may result in some additional paperwork, time, and costs to the Equal Employment Opportunity Commission, which would be entrusted with implementation and enforcement of the act. It is difficult to estimate the volume of additional paperwork necessity by the bill, but the committee does not believe it will be significant. Pursuant to the requirements of paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the committee has determined that the bill will not have a significant regulatory impact.

VII. SECTION-BY-SECTION ANALYSIS

Sec. 1. Short Title. This Act may be cited as the ''ADA Amendments Act of 2008.''

Sec. 2. Findings and Purposes. Acknowledges Congressional intent of the Americans with Disabilities Act of 1990 (ADA) to ''provide a clear and comprehensive national mandate for the elimination of discrimination against individuals with disabilities'' and to provide broad coverage, and that the U.S. Supreme Court subsequently erroneously narrowed the definition of disability in a series of cases. The purposes of the Act are to reinstate a broad scope of protection to be available under the ADA, to reject several Supreme Court decisions, and to re-establish original Congressional intent related to the definition of disability.

Sec. 3. Codified Findings. Amends one finding in the ADA to acknowledge that many people with physical or mental impairments have been subjected to discrimination, and strikes one finding related to describing the population of individuals with disabilities as ''a discrete and insular minority.''

Sec. 4. Disability Defined and Rules of Construction. Amends the definition of ''disability'' and provides rules of construction for applying the definition. The term ''disability'' is defined to mean, with respect to an individual, a physical or mental impairment that substantially limits one or more major life activities, a record of such impairment, or being regarded as having such an impairment.; provides an illustrative list of 'major life activities' including major bodily functions; and defines 'regarded as having such an impairment' as protecting individuals who have been subject to an action prohibited under the ADA because of an actual or perceived impairment, whether or not the impairment is perceived to limit a major life activity. Requires the definition of disability to be construed broadly and consistent with the findings and purposes. Provides rules of construction regarding the definition of disability, requiring that impairments need only limit one major life activity; clarifying an impairment that is episodic or in remission is a disability if it would substantially limit a major life activity when active; and prohibiting the consideration of the ameliorative effects of mitigating measures such as medication, learned behavioral modifications, or auxiliary aids or services, in determining whether an impairment is substantially limiting, while excluding ordinary eyeglasses and contact lenses.

Sec. 5. Discrimination on the Basis of Disability. Prohibits discrimination under Title I of the ADA ''on the basis of disability'' rather than ''against a qualified individual with a disability because of the disability of such individual.'' Clarifies that covered entities that use qualification standards based on uncorrected vision must show that such a requirement is job-related and consistent with business necessity.

Sec. 6. Rules of Construction. Provides that nothing in this Act alters the standards for determining eligibility for benefits under State worker's compensation laws or other disability benefit programs. Prohibits reverse discrimination claims by disallowing claims based on the lack of disability. Provides that nothing in this Act alters the provision in Title III that a modification of policies or practices is not required if it fundamentally alters the nature of the service being provided. Establishes that entities covered under all three titles of the ADA are not required to provide reasonable accommodations or modifications to an individual who meets the definition of disability only as a person ''regarded as having such an impairment.'' Authorizes the EEOC, Attorney General, and the Secretary of Transportation to promulgate regulations implementing the definition of disability and rules of construction related to the definition.

Sec. 7. Conforming Amendments. Amends Section 7 of the Rehabilitation Act of 1973 to cross-reference the definition of disability under the ADA.

Sec. 8. Effective date. Amendments made by the Act take effect January 1, 2009.

September 11, 2008.

TOM HARKIN,
*U.S. Senator.*
ORRIN HATCH,
*U.S. Senator.*

ENDNOTES

1. 42 U.S.C. §12101.

2. This rule of construction is consistent with earlier judicial precedents and parallels the rule of construction in the Religious Land Use and Institutionalized Persons Act, which Congress unanimously passed in 2002.

3. *Toyota Motor Manufacturing, Kentucky, Inc.* v. *Williams*, 534 U.S. 184 (2002).

4. Id. at 197.

5. Id. at 198. See also, 29 CFR 1630.2.

6. *Sutton* v. *United Airlines*, 527 U.S. 471 (1999).

7. *Murphy* v. *United Parcel Service, Inc.*, 527 U.S. 516 (1999), *Albertson's, Inc.* v. *Kirkingburg*, 527 U.S. 555 (1999).

8. Ordinary eyeglasses and contact lenses are excluded from this prohibition.

9. 29 U.S.C. §794. Sections 501 and 503 of the Rehabilitation Act also use the same definition of disability and prohibit disability discrimination by federal employees and federal contractors, respectively. 29 U.S.C. §§791, 793. Note that the definition of disability is found in Section 705(20)(B).

10. This bill does not change any current statutory requirement that an individual must be qualified to perform the essential functions of the job.

11. 42 U.S.C. 12101.

12. The bill's purposes include rejecting the holding in *Toyota* that in order for an impairment to be substantially limiting, the impairment must ''prevent or severely restrict the individual from doing activities that are of central importance to most people's lives.''

13. 28 CFR §36.104; 29 CFR §1630.2(h) (1)–(2); 34 CFR §104.3(j)(2)(i).

14. We have chosen not to adopt the House's term ''materially restricts'' or the House Committees' use of a range or spectrum of severity to define ''materially restricts'' because we are concerned both by the lack of clarity in the terms ''material'' ''moderate'' and ''severe'' and because we believe that such terms encourage the courts to engage in an inappropriate level of scrutiny as to the severity of an impairment when determining whether an individual has a disability.

15. Under the first prong, of course, a plaintiff must still provide evidence that that his or her impairment is substantially limiting.

16. See *Holt* v. *Grand Lake Mental Health Center, Inc.*, 443 F. 3d 762 (10th Cir. 2006) holding an individual with cerebral palsy who could not independently perform certain specified manual tasks was not substantially limited in her ability to perform a ''broad range'' of manual tasks.

17. We expect that this illustrative list of major life activities (including major bodily functions), in combination with the rejection of both the ''demanding standard'' in Toyota and the consideration of mitigating measure in the Sutton trilogy will make it easier for individuals to show that they are eligible for the ADA's protections under the first prong of the definition of disability. While it is impossible to predict the type of cases that will be brought following passage of this bill, we would expect that the bill will make it easier for individuals in cases like the following to qualify for the protections of the ADA—*Littleton* v. *Wal-Mart Stores, Inc*, 231 Fed. Appx. 874 (11th Cir. 2007) (individual with intellectual disability); *Furnish* v. *SVI Syst., Inc.*, 270 F. 3d 445, 450 (7th Cir. 2001) (person with cirrhosis of the liver caused by Hepatitis B); and *Pimental* v. *Dartmouth-Hitchcock Clinic*, 236 F. Supp. 2d 177 (D.N.H. 2002) (individual with advanced breast cancer).

18. 480 U.S. 273(1987).

19. The following courts have held that the ADA requires that reasonable accommodations be provided to individuals who are able to establish coverage under the ADA under the ''regarded as'' prong of the definition of disability: *Kelly* v. *Metallics West, Inc.*, 410 F.3d 670 (10th Cir. 2005) (plaintiff needed oxygen device to breathe); *D'Angelo* v. *ConAgra Foods, Inc.*, 422 F.3d 1220 (11th Cir. 2005) (plaintiff had vertigo resulting in spinning and vomiting); *Williams* v. *Philadelphia Housing Auth. Police Dept.*, 380 F.3d 751 (3d Cir. 2004) (plaintiff had major depressive disorder); *Lorinz* v. *Turner Const. Co.*, 2004 WL 1196699, * 8 n.7 (E.D.N.Y. May 25, 2004) (plaintiff had depressive disorder and anxiety); *Miller* v. *Heritage Prod., Inc.*, 2004 WL 1087370, * 10 (S.D. Ind. Apr. 21, 2004) (plaintiff had back injury and could not lift more than 20 pounds, bend or twist); *Jacques* v. *DiMarzio, Inc.*, 200 F. Supp.2d 151 (E.D.N.Y. 2002) (plaintiff had bipolar disorder); *Jewell* v. *Reid's Confectionary Co.*, 172 F. Supp.2d 212 (D. Me. 2001) (plaintiff had heart attack); *Katz* v. *City Metal Co., Inc.*, 87 F.3d 26, 33 (1st Cir. 1996) (plaintiff had heart attack). Some courts have held that reasonable accommodations need not be provided to an employee who is merely regarded or perceived as disabled. See *Kaplan* v. *City of N. Las Vegas*, 323 F.3d 1226, 1231–33 (9th Cir. 2003); *Weber* v. *Strippit, Inc.*, 186 F.3d 907, 916–17 (8th Cir. 1999); *Workman* v. *Frito-Lay, Inc.*, 165 F.3d 460, 467 (6th Cir. 1999); *Newberry* v. *E. Texas State Univ.*, 161 F.3d 276, 280 (5th Cir. 1998). Cf. Brady v. Wal-Mart Stores Inc. et al, No. 06–5486–cv (2nd Cir. July 2, 2008) (accommodations available under either first or third prong).

20. 527 U.S. at 479 (1999).

21. For example, an individual with diabetes might demonstrate coverage by showing either that he was substantially limited in endocrine functioning or that his diabetes substantially limited a major life activity, such as eating or sleeping.

## IDAHOANS SPEAK OUT ON HIGH ENERGY PRICES

Mr. CRAPO. Mr. President, in mid-June, I asked Idahoans to share with

me how high energy prices are affecting their lives, and they responded by the hundreds. The stories, numbering over 1,000, are heartbreaking and touching. To respect their efforts, I am submitting every e-mail sent to me through energy_prices@crapo.senate.gov to the CONGRESSIONAL RECORD. This is not an issue that will be easily resolved, but it is one that deserves immediate and serious attention, and Idahoans deserve to be heard. Their stories not only detail their struggles to meet everyday expenses, but also have suggestions and recommendations as to what Congress can do now to tackle this problem and find solutions that last beyond today. I ask unanimous consent to have today's letters printed in the RECORD.

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

Thank you for requesting my input on the energy crisis. I found out several years ago that energy prices were going to skyrocket due to the imminent peaking of oil production (and natural gas) worldwide. I read every book on the subject of the coming energy crisis such as ''Twilight in the Desert'', ''The Party's Over'', ''The Long Emergency'', ''Big Coal'', ''Powerdown'', and probably 15 others. I read most every relevant news story as collected by www.energybulletin.net.

I have heard the pleas from Al Gore, Bill Clinton, Matt Simmons, Rep. (R) Roscoe Bartlett (Maryland) and many other prominent Americans who want our citizens to know the truth about Peak Oil Theory, and the implications of a global peak and inevitable decline in production.

I have since sold my car, my house, and am living with massive inflation, food and gasoline shortages, and likely economic collapse in mind. I am growing a large garden this year and riding my bicycle(s) most everywhere. I have met with local leaders, including Boise Mayor Dave Bieter, to talk about real solutions, and have written letters to the editor of the Idaho Statesman monthly.

We need to grow most all of our own food locally, produce and distribute most goods locally, and keep people employed doing things to create and expand our new localized economy. We need to accept that our population will decline due to lowering food production. We need to know that the era of high consumption, personal automobiles, travel, and technology is coming to a close. People must understand that in 100 years our planet will sustain perhaps 1 billion people, living primarily an agrarian existence, without technology.

If the people remain in the dark about our true future, there are unspeakable dangers. Dictatorship in America, nuclear confrontations over resources, and rioting are likely. Please help to inform the American public now.

BOB, *Boise*.

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Thank you for the email telling us of your position on the energy crunch (and thank you for opposing that climate change legislation). I am all in favor of developing alternative energy sources, such as biodiesel, and in expanding our refinery capacity for conventional petroleum fuels. I heartily support tapping the petroleum resources we have here in the United States and, from all that I have heard, we have (or can soon develop) the technology to do it with less harm to the environment. I understand that Congressman Chris Cannon of Utah is making efforts to develop oil shale fields that are located under Utah, Colorado and Wyoming. I support this and hope that you will uphold these efforts if corresponding legislation reaches the Senate. I also support conservation incentives that would encourage companies to come up with more environmentally friendly methods of developing these resources.

I support expanding our use of nuclear energy. My understanding is that the popular fears of nuclear power plants are largely based on myth. And most of the ''waste'' produced is either relatively benign, or can be recycled or reused. If federal regulations were changed so that all radioactive byproducts did not have to be shipped to a nuclear waste repository, we would have plenty of space in places like Yucca Mountain. Apparently, only 2% of byproducts from nuclear reactors really need to be taken to such facilities. As an aside, France produces 80% of its electricity from nuclear power. What in the world is holding us back from building more nuclear power plants?

Please do whatever you can to bring about changes at the federal level so that the private sector can go to work developing technologies and resources to solve our growing energy problems. I agree that we are ''too dependent on petroleum,'' and that we are ''far too dependent on foreign sources of that petroleum.'' We must move forward in availing ourselves of the resources we have. We should do so in an environmentally conscientious manner, yes, but we must move forward.

Sincerely,

BLAKE, *Hamer*.

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A few years ago I needed to re-do a roof. I considered solar panels and energy conservation devices. It added a lot of costs, but I thought that it would be worthwhile if I could get a bit of a tax break. I contacted the state, power company, gas company, and checked the Internet for federal tax breaks. There weren't any for individuals. The lady with the state simply stated that ''they do not do things that way.'' I felt this was short-sighted at the time, and, as things are now, my opinion seems to be correct. I do not foresee a turn around any time soon. Why does not the legislature encourage the gas and power companies to offer incentives? Why does not the state or federal legislatures offer tax incentives to individuals instead of to major corporations?

The engine that drove America to its current prominence is the creativeness and industry of the every day American. Release it! Encourage people to come up with their own energy saving ideas and devices. At least, stop blocking individual efforts that are attempted by easing legal restrictions. America's and Idaho's energy companies and legislatures have created barriers to individual ingenuity. It is not in their respective interests to encourage such action. I feel that this is short-sighted at this time, but I expect more of the same. Until the economic pain of the individual is shared by the existing energy corporation executives and current legislators, little more than lip service can be expected. Some have said that gas at $5/gallon would wake us all up and cause change to occur. The fallacy in this logic is that the $5/gallon is increased profits and corporations seldom discourage profit. There is economic pain all right, but the pain is not felt by the folks who initiate changes.

Here is a radical proposal: Remove the existing corporate tax benefits related to oil and some other energy corporations. (Windfall profits are possible, but I am not recommending them.) Offer the same amount as tax benefits to individuals. These can be in the form of worthwhile individual energy grants and can be emergency economic tax credits in places like the Midwest. You are probably aware that there have been significant floods in the Midwest. You are probably aware that this is expected to affect the cost of food and fuel adversely. This will result in the same type of economic pain as the current ''Gas Crisis''. The fund might be an ''Economic Crisis'' fund. I have little doubt that there are many other economic crises that will occur.

The engine of America is in need of maintenance. This maintenance is needed at the individual level. The Economic Crisis fund can provide for maintenance, and some improvements. Once the engine of America stops running, the entire world is going to see some real economic pain. Some of the most short sighted world leaders will transfer this economic pain into other kinds of pain. Somebody else will be blamed and punitive action started.

Here is another consideration. Some say that the cost of gas is based on speculation. If this is true, a disincentive can easily be added to dampen speculative zeal in the form of capital gains taxes. There are long and short term capital gains. Let us add another class that would penalize speculation. Extend long term capital gains taxes to five years. This will allow reasoned investments. Keep the tax rate on these low. Speculators are usually short term. Raise the tax rate on the speculation profits. No doubt there will be howls, but then there will be an adjustment, and the overall effect could be that market manipulation is discouraged while prudent or targeted investment is encouraged. The tax code would also need to be amended.

KELLY.

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We would like to express our concern over Congress's reluctance to address the energy problem. Rather than blaming oil companies for making an 8½% profit, you should all be blaming yourselves for your lack of foresight. The law of supply and demand is well understood out here, but Washington does not seem to grasp it. Drill . . . off-shore, ANWR, coal-to-oil, nuclear, solar, wind, shale oil. In short, go to work on the problem instead talking it to death. Immediately lift your restrictions on drilling here.

Our propane went from $124 every three weeks last winter, to $227 this spring. We are broke. Between my physical inability to work, (but not disabled enough to draw disability), my husband's $10 an hr. job, our mortgage, utilities, transportation costs, property taxes, auto licenses, home owner's insurance, medical insurance, and auto insurance, we now find ourselves with no grocery money. Our daughter, tax rebates, unexpected refund of medical overpayment, (God), have fed us the first half of this year.

Tell your colleagues that there are real people out here that do not make hundreds of thousands of dollars a year, (of course, if we could set our own wages, we would), but try to live on a gross of $20,000 a year.

We, our friends, relatives and neighbors are beginning to suffer. This is the first time in many years that we have had to worry about our next week's groceries. We are agonizing over whether to drop our medical coverage, but that is so frightening.

Thank you for listening.

Sincerely,

CHARLES and WANDA.

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Thank you for your support in trying to keep our gas prices down. Thank you also for trying to utilize energy sources here in America.

We are disability retired and taking care of my 90–year-old father. Of course you are aware that gas prices are driving the cost of everything else up. It is difficult to make our

fixed income stretch through the entire month. We only drive when absolutely necessary for doctor's appointments and shopping. If we forget something at the store, then we go without until the next time. It cost $51.00 to fill our tank in our mid-size car last time. The thought of gas reaching $6.00 or even $8.00 per gallon makes us wonder how we will possibly pay for it. We do not have bus service in Hayden, and being disabled are unable to walk to the nearest store which is a couple of miles away.

We plead with Congress to help us and the many that are in the same situation! Hopefully, Republicans will not sustain too great a loss in the upcoming election so they can push for a sensible domestic energy policy.

We are wondering if you support Newt Gingrich's ''Drill Here. Drill Now. Pay Less.'' proposal? Hopefully so.

Thank you.

Respectfully,

MIKE and MARY.

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This Congress has a terrible record when it comes to sensible solutions to our energy problem!

This [current] Congress has failed miserably to address the real problems we the public face and instead wasted time investigating horse racing and drugs in sports or anything else [that provides easy publicity]. Many [conservatives] are also failing miserably and voting for (the wrong) politics over principle in misguided attempts to hang on to their jobs: earmarks come to mind here as well as voting with the [majority] and for special interest groups that are against solving our energy problems using our own abundant resources. We need to get rid of these people FAST so that somebody that really represents us can get on with solving the problem!

As I see it, with all major potential sources of domestic oil now legally ''off limits'' to exploration; with refineries effectively prevented from increasing their capacities; with nuclear plants unable to expand and increase because they are prevented from safely storing their waste; with our monstrous quantities of coal, clean or otherwise, on the verge of being banned; with heavily-subsidized corn-based ethanol now a major reason for the world-wide food crisis, Congress needs to call a ''time out'' and take a good look at what they're doing to our country! It is not something that can continue or ''our way of life'' as we know it will end! And if it does, the party identified as making it happen will find itself at an end too! At some point, I expect to see our country experience the kind of public protests becoming common elsewhere around the world, and with elections coming up shortly, the means will be readily at hand to make whatever changes we need. I vote, and I am really looking at the candidates voting records closely this time.

FRED, *Priest River*.

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I am grateful for this opportunity to explain to you how the high gas prices are affecting me. I am a 23-year-old senior in college from the Burley area. I came home this summer and got a job as a pizza deliverer, therefore the amount I make depends a lot on the price of gasoline, because as the cost of gasoline rises that is less money that is available for me to set aside for college. Since I came back to Burley in the end of April, I have seen the price of gas at the cheapest gas station in town jump from $3.369 to $3.959 tonight as I drove home from work. In nearly two months on the job, my fuel expenses have almost exceeded $400.

I pay for college myself, with the assistance of some academic scholarships. I do not qualify for government aid. I did not qualify for the recent tax rebate. And I have made a goal to earn my undergraduate degree without taking out a loan because, in this unstable economy, I do not want to have that added albatross when I go to buy a house and start my family. I am not asking for a handout, or a loan or even a tax cut (though, admittedly, that would be nice). I am a hard worker, and I can make it through college without incurring one cent's worth of debt if the government would make a sensible energy policy that kept prices at the pump reasonable. What I am afraid is that most members of Congress, and especially the leadership, do not understand that rising gas prices affect lower income families and individuals like I the most. Do they not see that the entire $150 billion tax rebate will likely be used to cover the increased price of energy? The net economic benefit of the tax rebate is being pumped into our cars and burned. Fiery rhetoric about record profits in the oil industry may get some people angry, but does it really do any good? What assurance do I get that the price of gas will drop if Congress taxes the oil industry more? What's more, what assurance can you give me that the price will not increase as the oil companies pass the tax on to me? Some also suggest that we raise the miles per gallon standards on cars. That sounds good to me, but I cannot afford to buy a brand new Prius, much less a brand new anything. Some also say we should increase nuclear, hydroelectric, solar and wind power, all sentiments that I agree with. But, forgive my ignorance if I fail to see how building nuclear plants, dams, windmills or solar panels increase the oil supply. None of those options helps me at the pump. I still end up paying the high price of gas.

My feelings on how to solve the current energy crisis can be summed up with the title of Speaker Newt Gingrich nationwide petition drive: ''Drill Here. Drill Now. Pay Less.'' which more than 800,000 Americans have signed to date. My plea, Senator CRAPO, is that you stand up for the people like me and demand we open our coasts for drilling, open the ANWR for drilling, open the Rocky Mountains for drilling. I know we can do it in an environmentally friendly way. We are the United States, the greatest, most powerful nation on earth. Nothing is impossible for us. My grandparents and great-grandparents lived through a Depression, which dwarfed the current economic crisis. I want to have faith in my country that our generation will meet this issue head on. I have heard people say we cannot drill ourselves out of the crisis. But I fail to see how doing nothing to increase domestic oil production solves the problem either. If a college student who struggled through Economics 101 understands that the bulk of this issue is a supply problem, what does that say about the lack of economic prowess on display by a majority of Congress? Perhaps an equitable solution for both sides would be to write a bill that opens the ANWR and at the same time releases half of the strategic oil reserve. That would have the immediate effect of lowering gas prices and a longer term effect of increased supply. Can both sides agree to something like that?

JARED.

## AFRICA

Mr. FEINGOLD. Mr. President, I am very concerned that one of Africa's most gruesome and longstanding conflicts is once again falling off the radar screen of this Congress and this administration. For 22 years, northern Uganda has been caught in a war between the Ugandan military and rebels of the Lord's Resistance Army, leading at its height to the displacement of 1.8 million people, nearly 90 percent of the region's population. Just a few years ago, an estimated 1,000 people were dying each week in squalid camps, and northern Uganda was called the world's worst neglected humanitarian crisis. The rebels for their part are reviled across the world for their horrific brutality. Over the course of the conflict, they have reportedly abducted more than 66,000 children, forcing them into sexual slavery or child soldiering.

In March of 2007, the Senate passed a resolution I introduced recognizing this crisis and calling on the administration to support the ongoing peace negotiations. These negotiations—which began in 2006 in Juba, Southern Sudan, and were mediated by the Government of Southern Sudan—brought a cessation of hostilities and offered the best opportunity in a decade to bring an end to the war. At the urging of this Congress and thousands of concerned Americans, the State Department finally appointed a senior diplomat to coordinate U.S. support for this peace process. That diplomat, Tim Shortley, played a crucial role over the last year in moving the negotiations forward. In March 2008, the parties reached an agreement that was one of the most comprehensive of its kind, including provisions for truth-telling, disarmament and demobilization, reconciliation and accountability.

Unfortunately, the leader of the Lord's Resistance Army—LRA—Joseph Kony, has refused to sign the agreement. Far more disturbing, his rebels now operating almost entirely outside Uganda and instead in the border region between Central African Republic, Congo, and Southern Sudan have resumed attacks and abducting children. They are easily exploiting the region's porous borders and ungoverned spaces a problem which, in my view, constitutes a threat to international peace and security. Yet rather than intensify efforts to engage and pressure Kony to accept the agreement, the United States and others in the international community have downscaled our efforts. Instead of mustering the tremendous resources at our disposal to press the rebels to accept a political solution, we have turned our attention elsewhere again.

As a result, there is now a haphazard military operation underway to contain the rebels by the Congolese military a force not known for its success in defeating armed groups or for respecting civilians caught in the crossfire. Yes, the U.N. Peacekeeping Force in Congo, known by its French acronym MONUC, is supporting the Congolese military, but MONUC is already overwhelmed by its inability to fully address its primary task: controlling the persistent violence in the eastern Congo. I visited that region last summer and it is a region desperately in need of greater security. Without expanded resources and capacity focused

on this problem, a completely new offensive runs a high risk of exacerbating the region's volatility rather than addressing it. We have seen too many times in this part of the world how rash and uncoordinated ''military solutions'' have fueled the flames of conflict and generated new political grievances.

This is not to say that security measures aren't needed to protect civilians in the region and thereby bring permanent peace to eastern Congo and northern Uganda. They are. Until we are able to build the capacity of national and regional institutions, the LRA and other armed groups will continue to exploit the region's borders and wreak havoc throughout these four countries. We need more inter-agency collaboration to consider how we can bolster sustainable long-term civilian protection mechanisms, while in the meantime devising creative short-term strategies to help fill the gaps.

The calm brought by the Juba peace process presented an unprecedented opportunity in this conflict's history to rebuild northern Uganda's institutions, which is the surest safeguard against future violence and instability. I fear that this opportunity is being squandered. Since the cessation of hostilities was signed two years ago, nearly half of the people displaced have returned to their original homes and begun to restore their livelihoods. However, this process has increasingly been fraught with problems. The lack of access to basic services in the villages and transit sites, such as clean water, health care and education, has broken up families and hindered recovery. The lack of a capable and competent police force and judiciary has left women and girls vulnerable to sexual violence. Finally, the lack of programs to address underlying grievances and psychosocial trauma has allowed tensions to fester.

Responsibility for managing northern Uganda's transition lies first and foremost with the Government of Uganda. I realize that the government has limited capacity, but it seems there has been a distinct lack of high-level leadership. In October 2007, the Ugandan government launched a three-year $600-million recovery plan for the war-torn region, but that plan has been mired in confusion. Its partial implementation only began 2 months ago. Moreover, there continues to be a lack of coordination between the government, donors, U.N. agencies and non-governmental organizations. I urge the Ugandan government to show leadership at the highest levels and demonstrate its willingness to fulfill the promises it made to the people of northern Uganda over the last year.

If the Ugandan government leads and takes measures to prevent corruption, the international community should back it up with the necessary financial and technical support. To signal that commitment, I call on the administration to help convene a high-level conference of Uganda donors. Such a conference can coordinate an effective donor strategy to support recovery efforts and hold the Ugandan government accountable. This conference, though, must only be the beginning of reinvigorated institutional engagement by this administration and the next to bring this conflict to its conclusion, which is finally in sight after 22 years. Let us make it clear once and for all that the United States is resolved to see peace secured in northern Uganda.

Too often this Administration has leapfrogged from one crisis to another in Africa, trying to put out fires but not addressing the underlying factors driving these conflicts. This is not a result of lack of interest or dedication from our diplomats, for I have seen first-hand their resourcefulness and hard work. But the reality is that the State Department's Africa Bureau is overwhelmed and under resourced. For places like northern Uganda or eastern Congo or the Niger Delta, we do not have the personnel or on-the-ground presence to respond comprehensively to insecurity. We in Congress must give greater attention in the coming months and years to ensuring our diplomats have the resources they need to operate in these neglected conflict areas. However, that process begins with us committing to these places, not just whenever they hit the headlines but because they are important to our collective security and to basic American principles.

## U.S. OLYMPIANS

Mr. LEAHY. Mr. President, I rise today to honor two Vermonters who represented their country this summer in China. Everyone at one time or another has heard the Mark Twain quote, ''It's not the size of the dog in the fight, it's the size of the fight in the dog.'' Nothing embodies this adage to me more than the commendable determination of this year's Vermont summer Olympians. Vermonters have always stood as an example of what a good hard day's work can accomplish, and this summer in Beijing was no exception. In a world of more than 6.5 billion people, our great State of 610,000 creates world class athletes that stand out against the crowd.

Representing Vermont on the U.S. Women's Weightlifting Team was Carissa Gump, originally of Essex. Ever since her middle school gym teacher first convinced her to pursue weightlifting, her dedication has brought her success. One of only two U.S. women competing in her weight class, Carissa was able to finish an impressive fifth in her group and thirteenth overall. Showing off her Vermont bred toughness, she managed to complete every one of her lifts all while nursing an aggravating left wrist injury. From reading Carissa's online blog, anyone can also learn about her amazing and loving family. Her parents, Kathie and Marty, and her husband Jason took time away from work to fly to Beijing with Carissa and give her their support. This inspiring display of heart truly embodied Vermont's Olympic spirit and I would like to join with her family and friends in commending Carissa's remarkable achievement.

On the track, the Men's 800 meters featured Norwich native Andrew Wheating. Andrew has become a regular in the national headlines ever since he finished second in the U.S. Olympic Trials and earned a ticket to represent his country in Beijing. Currently a sophomore at the University of Oregon and the only Vermonter to run a 4-minute-mile, Andrew has already established himself as one of the sport's rising young talents. The son of Betsy and Justin Wheating, Andrew not only showcased his talent to the world, he also realized a longtime family dream. Justin Wheating as a standout athlete in his home country of England never had a chance to represent his country in an Olympic games. However, Mr. Wheating managed to pass the torch to an exceptional son who Vermont is proud to call one of our own and Andrew's thrilling performance in these Olympic quarterfinals showed the world why. With all of the success and accolades this young man has already accumulated, there is no doubt in my mind that he has a very bright future ahead of him.

In a place historically famous for its winter athletes, these exceptional competitors just further prove it is impossible to pigeon hole our great State. For those of you who enjoy skiing Vermont in the winter, perhaps it is time to come see why we call them the ''Green Mountains'' next summer? The extraordinary displays of speed and power by these Vermonters on the world's largest stage perfectly showcased our diverse range of talent and I want to thank Carissa and Andrew for making their State and country proud.

Mr. BAYH. Mr. President, I rise today to pay tribute to the 10 outstanding Hoosier athletes who represented the State of Indiana and all of the United States in the Games of the XXIX Olympiad in Beijing, China.

Lloy Ball, a volleyball player from Fort Wayne; David Boudia, a diver from Noblesville; Amber Campbell, a track and field athlete from Indianapolis; Lauren Cheney, a soccer player from Indianapolis; LeRoy Dixon, a track and field athlete from South Bend; Mary Beth Dunnichay, a diver from Elwood; Thomas Finchum, a diver from Indianapolis; David Neville, a track and field athlete from Merrillville; Samantha Peszek, a gymnast from Indianapolis; and Bridget Sloan, a gymnast from Pittsboro, all represented the Hoosier State as members of Team USA.

This Olympiad is the first for many of the Hoosier athletes; others have donned the colors of Team USA before. This year, Lloy Ball, a member of the

U.S. men's volleyball team, became the first male athlete from the United States to compete in four Olympic Games. Lloy's incredible feat will forever be part of Indiana and Olympic sports history, and I know our entire State is immensely proud to count him among our own.

These Hoosiers have shown superior abilities, extraordinary work ethics, and unflappable determination in their quests to become Olympic athletes. The road to the pinnacle of athletic success has required thousands of hours of demanding training over years of preparation, yet these athletes show us that commitment to excellence truly has its rewards. For many of our Hoosier athletes, the spoils of their hard work and dedication came in the form of an Olympic medal. Lloy Ball and the men's volleyball team brought home a gold medal, as did Lauren Cheney and the women's soccer team. David Neville won the bronze medal in the 400 meter final, and Samantha Peszek and Bridget Sloan were awarded the silver medal with their teammates on the women's gymnastics team.

These 10 athletes traveled halfway around the globe to compete against the worlds' finest, and brought with them the unwavering support of their fellow Hoosiers. The people of Indiana are fortunate to have had such an exceptional group representing us at the Olympic Games.

Team USA represents the best America has to offer, and these Hoosiers have made our State and our country proud.

Mr. CRAPO. Mr. President, the Olympic Games has always been a time for the world to celebrate the triumph of the human spirit and personal qualities that determine excellence: discipline, commitment and a positive, winning attitude. Athletes from all over the world bring pride to their countries, friends and family during the Olympic Games. Most importantly, they achieve the distinction that can come when an individual applies determination and hard work to develop a God-given talent. Motivated to get up early, often before work, to pound the pavement, ride the roads and trails, shoot baskets, hit balls, lift weights or swim laps, these women and men are committed to improving their strength, agility, speed and stamina. I am especially proud of the Idahoans who competed in the 2008 Olympics, representing their teams, their Nation and their families with skill and pride.

As you may know, Boise resident Kristin Armstrong won the gold in the women's cycling time trial. Kristin is well known around the Boise area: many have seen her cycling or at the local YMCA where she is an instructor. She is an inspiration to those who know her and she has made Idaho proud. Bishop Kelly High School graduate Nick Symmonds advanced to the preliminary round in the 800 meter run. Georgia Gould, a one-time Ketchum resident competed in the women's mountain bike race. Team USA also included Idahoans: Matt Brown, a graduate of Coeur d'Alene High School, played third baseman for Team USA in baseball. Debbie McDonald, from Hailey, competed for Team USA in dressage. Idahoans excelled on teams from other nations as well. Clare Bodensteiner, a graduate of Minico High School, played for the New Zealand basketball team. Angela Whyte, a former University of Idaho runner and now assistant coach competed for Canada in the 100 meter hurdles and, Joachim Olsen, also a University of Idaho athlete, competed in the shot put for Denmark. Emerson Frostad, a former Lewis-Clark State College baseball player played for Team Canada as a catcher/first baseman. Eric Matthias, a Boise resident and in graduate school at Boise State University, competed for the British Virgin Islands in the discus throw.

And in the Paralympics—the second-largest sporting event in the world after the Olympics—that are concluding in Beijing this week, Idaho native Barbara Buchan took the gold in the 3,000 meter cycling event. Barbara was the 1972 high school mile run State champion from Mountain Home High School and went on to graduate from Boise State University. She was severely injured in a cycling accident in 1982, suffering almost fatal wounds. In addition to terrible physical injuries, she was in a coma for 2 months and had surgery to remove the damaged parts of her brain. After years of physical and mental rehabilitation, Barbara came back, her passion for cycling unchanged. A five-time Paralympics competitor at 52 years old, Barbara embodies the Olympic spirit.

To all these courageous, gifted and dedicated Idaho athletes, I offer my heartfelt congratulations for a job well done. You continue to make Idaho proud.

## ENFORCEMENT OF INTELLECTUAL PROPERTY RIGHTS ACT

Mr. GRASSLEY. Mr. President, I would like to inform my colleagues of my request to be notified of any unanimous consent agreement that would allow for the consideration of S. 3325, the Enforcement of Intellectual Property Rights Act of 2008. I intend to reserve my right to object to any such request.

S. 3325 was marked up by the Judiciary Committee just last Thursday afternoon. I circulated several amendments to address a number of concerns I had about the bill. Two of my amendments—one that would add USDA to the list of agencies on the IPEC Advisory Committee, and another that would provide for an orderly transition from NIPLECC to IPEC—were adopted by the committee. However, I withheld from offering other amendments because I received a commitment that the chairman and ranking member of the Judiciary Committee would work with me to address my other concerns.

For example, I have concerns with the funding of the new State and local law enforcement grant programs in section 501 and the grant match ratio for those programs. Further, I have concerns with the creation of a new intellectual property crimes unit at the FBI to enforce intellectual property rights and the authorization of additional funding, resources and staff for the FBI to implement these additional responsibilities. I firmly believe that the FBI should focus its efforts on combating terrorism. I am concerned about duplication with work currently being performed at ICE and its National Intellectual Property Rights Coordination Center. Moreover, I am concerned with language calling for the prioritization of cases involving foreign controlled companies, and the lack of any priority for cases investigated by the FBI that have a nexis to potential terrorist activities.

My staff will be sitting down with the chairman and ranking member's staff to work on my concerns. Again, I intend to reserve my right to object to proceeding to the consideration of S. 3325 until my concerns have been addressed.

# ADDITIONAL STATEMENTS

## BURLINGTON COMMUNITY EDUCATION

• Mr. HARKIN. Mr. President, in Iowa and across the United States, a new school year has begun. As you know, Iowa public schools have an excellent reputation nationwide, and Iowa students' test scores are among the highest in the Nation.

I would like to take just a few minutes, today, to salute the dedicated teachers, administrators, and school board members in the Burlington Community School District, and to report on their participation in a unique Federal partnership to repair and modernize school facilities.

This fall marks the 10th year of the Iowa Demonstration Construction Grant Program. That is its formal name, but it is better known among educators in Iowa as the program of Harkin grants for Iowa public schools. Since 1998, I have been fortunate to secure a total of $121 million for the State government in Iowa, which selects worthy school districts to receive these grants for a range of renovation and repair efforts—everything from updating fire-safety systems to building new schools or renovating existing facilities. In many cases, this Federal funding is used to leverage public and/or private local funding, so it often has a tremendous multiplier effect in a local school district.

The Burlington Community School District received a 2006 Harkin grant totaling $500,000 which it used to help build a new elementary school. Sunnyside Elementary is a modern, state-of-the-art facility that befits the educational ambitions and excellence of

this school district. Indeed, it is the kind of school facility that every child in America deserves.

Excellent new schools like Sunnyside do not just pop up like mushrooms after a rain. They are the product of vision, leadership, persistence, and a tremendous amount of collaboration among local officials and concerned citizens. I salute the entire staff, administration, and governance in the Burlington Community School District. In particular, I would like to recognize the leadership of the board of education—president Thomas Greene, vice president Dennis Kuster, Gary Imthurn, Melanie Richardson, Don Harter, Linda Garwood, Scott Smith and former board members Tom Courtney, John Sandell, Joseph Abrisz, Steven Hoth, Jason Sapsin and Joseph Poisel. I would also like to recognize superintendent Leland Morrison, former superintendent Michael Book, director of maintenance and construction manager Byron Whittlesey and principal Terri Rauhaus.

As we mark the 10th anniversary of the Harkin school grant program in Iowa, I am obliged to point out that many thousands of school buildings and facilities across the United States are in dire need of renovation or replacement. In my State of Iowa alone, according to a recent study, some 79 percent of public schools need to be upgraded or repaired. The harsh reality is that the average age of school buildings in the United States is nearly 50 years.

Too often, our children visit ultramodern shopping malls and gleaming sports arenas on weekends, but during the week go to school in rundown or antiquated facilities. This sends exactly the wrong message to our young people about our priorities. We have got to do better.

That is why I am deeply grateful to the professionals and parents in the Burlington Community School District. There is no question that a quality public education for every child is a top priority in that community. I salute them, and wish them a very successful new school year.●

## LAMONI COMMUNITY EDUCATION

● Mr. HARKIN. Mr. President, in Iowa and across the United States, a new school year has begun. As you know, Iowa public schools have an excellent reputation nationwide, and Iowa students' test scores are among the highest in the Nation.

I would like to take just a few minutes, today, to salute the dedicated teachers, administrators, and school board members in the Lamoni Community School District, and to report on their participation in a unique Federal partnership to repair and modernize school facilities.

This fall marks the 10th year of the Iowa Demonstration Construction Grant Program. That is its formal name, but it is better known among educators in Iowa as the program of Harkin grants for Iowa public schools. Since 1998, I have been fortunate to secure a total of $121 million for the State government in Iowa, which selects worthy school districts to receive these grants for a range of renovation and repair efforts—everything from updating fire-safety systems to building new schools or renovating existing facilities. In many cases, this Federal funding is used to leverage public and/or private local funding, so it often has a tremendous multiplier effect in a local school district.

The Lamoni Community School District received a 2005 Harkin grant totaling $500,000 which it used to help build a new high school. This school is a modern, state-of-the-art facility that befits the educational ambitions and excellence of this school district. Indeed, it is the kind of school facility that every child in America deserves. The district also received fire safety grants totaling $100,000 to make other improvements throughout the district.

Excellent new schools like Lamoni High School do not just pop up like mushrooms after a rain. They are the product of vision, leadership, persistence, and a tremendous amount of collaboration among local officials and concerned citizens. I salute the entire staff, administration, and governance in the Lamoni Community School District. In particular, I would like to recognize the leadership of the board of education, president Bill Morain, Mike Quick, Dennis McElroy, Michele Dickey-Kotz and Dale Killpack and former board members MaryAnn Manuel, Alan Elefson, Bob Bell and Mike Ranney. I would also like to recognize superintendent Diane Fine, former superintendent Mike Harrold, high school principal Dan Day, grant writer Shirley Kessel, project manager Dan Boswell, as well as many community members who worked hard to make the dream of a new high school come true.

As we mark the 10th anniversary of the Harkin school grant program in Iowa, I am obliged to point out that many thousands of school buildings and facilities across the United States are in dire need of renovation or replacement. In my State of Iowa alone, according to a recent study, some 79 percent of public schools need to be upgraded or repaired. The harsh reality is that the average age of school buildings in the United States is nearly 50 years.

Too often, our children visit ultramodern shopping malls and gleaming sports arenas on weekends, but during the week go to school in rundown or antiquated facilities. This sends exactly the wrong message to our young people about our priorities. We have got to do better.

That is why I am deeply grateful to the professionals and parents in the Lamoni Community School District. There is no question that a quality public education for every child is a top priority in that community. I salute them, and wish them a very successful new school year.●

## SHENANDOAH COMMUNITY EDUCATION

● Mr. HARKIN. Mr. President, in Iowa and across the United States, a new school year has begun. As you know, Iowa public schools have an excellent reputation nationwide, and Iowa students' test scores are among the highest in the Nation.

I would like to take just a few minutes, today, to salute the dedicated teachers, administrators, and school board members in the Shenandoah Community School District, and to report on their participation in a unique Federal partnership to repair and modernize school facilities.

This fall marks the 10th year of the Iowa Demonstration Construction Grant Program. That is its formal name, but it is better known among educators in Iowa as the program of Harkin grants for Iowa public schools. Since 1998, I have been fortunate to secure a total of $121 million for the State government in Iowa, which selects worthy school districts to receive these grants for a range of renovation and repair efforts—everything from updating fire-safety systems to building new schools or renovating existing facilities. In many cases, this Federal funding is used to leverage public and/or private local funding, so it often has a tremendous multiplier effect in a local school district.

The Shenandoah Community School District received a 1999 Harkin grant totaling $526,231 which it used to help build a new K–8 school. This school is a modern, state-of-the-art facility that befits the educational ambitions and excellence of this school district. Indeed, it is the kind of school facility that every child in America deserves. The district also received a total of $64,189 from two fire-safety grants. The Federal grants have made it possible for the district to provide quality and safe schools for their students.

Excellent schools do not just pop up like mushrooms after a rain. They are the product of vision, leadership, persistence, and a tremendous amount of collaboration among local officials and concerned citizens. I salute the entire staff, administration, and governance in the Shenandoah Community School District. In particular, I would like to recognize the leadership of the board of education—Marty Maher, Dr. Margaret Brady, Brian Maxine, Dwight Mayer, and Keith Meyer. I would also like to recognize superintendant Richard Profit as well as former board members—Ken Lee, Roger Jones, and Steve Berning and former superintendent Connie Maxson.

As we mark the 10th anniversary of the Harkin school grant program in Iowa, I am obliged to point out that many thousands of school buildings and facilities across the United States

are in dire need of renovation or replacement. In my State of Iowa alone, according to a recent study, some 79 percent of public schools need to be upgraded or repaired. The harsh reality is that the average age of school buildings in the United States is nearly 50 years.

Too often, our children visit ultramodern shopping malls and gleaming sports arenas on weekends, but during the week go to school in rundown or antiquated facilities. This sends exactly the wrong message to our young people about our priorities. We have got to do better.

That is why I am deeply grateful to the professionals and parents in the Shenandoah Community School District. There is no question that a quality public education for every child is a top priority in that community. I salute them, and wish them a very successful new school year. ●

## SHENANDOAH COMMUNITY EDUCATION

● Mr. HARKIN. Mr. President, in Iowa and across the United States, a new school year has begun. As you know, Iowa public schools have an excellent reputation nationwide, and Iowa students' test scores are among the highest in the Nation.

I would like to take just a few minutes, today, to salute the dedicated teachers, administrators, and school board members in the Shenandoah Community School District, and to report on their participation in a unique Federal partnership to repair and modernize school facilities.

This fall marks the 10th year of the Iowa Demonstration Construction Grant Program. That is its formal name, but it is better known among educators in Iowa as the program of Harkin grants for Iowa public schools. Since 1998, I have been fortunate to secure a total of $121 million for the State government in Iowa, which selects worthy school districts to receive these grants for a range of renovation and repair efforts—everything from updating fire-safety systems to building new schools or renovating existing facilities. In many cases, this Federal funding is used to leverage public and/or private local funding, so it often has a tremendous multiplier effect in a local school district.

The Shenandoah Community School District received a 1999 Harkin Grant totaling $526,231 which it used to help build a new K–8 school. This school is a modern, state-of-the-art facility that befits the educational ambitions and excellence of this school district. Indeed, it is the kind of school facility that every child in America deserves. The district also received a total of $64,189 from two fire safety grants. The federal grants have made it possible for the district to provide quality and safe schools for their students.

Excellent schools do not just pop up like mushrooms after a rain. They are the product of vision, leadership, persistence, and a tremendous amount of collaboration among local officials and concerned citizens. I salute the entire staff, administration and governance in the Shenandoah Community School District. In particular I would like to recognize the leadership of the board of education—Marty Maher, Dr. Margaret Brady, Brian Maxine, Dwight Mayer and Keith Meyer. I would also like to recognize superintendant Richard Profit as well as former board members—Ken Lee, Roger Jones and Steve Berning and former superintendent Connie Maxson.

As we mark the 10th anniversary of the Harkin school grant program in Iowa, I am obliged to point out that many thousands of school buildings and facilities across the United States are in dire need of renovation or replacement. In my State of Iowa alone, according to a recent study, some 79 percent of public schools need to be upgraded or repaired. The harsh reality is that the average age of school buildings in the United States is nearly 50 years.

Too often, our children visit ultramodern shopping malls and gleaming sports arenas on weekends, but during the week go to school in rundown or antiquated facilities. This sends exactly the wrong message to our young people about our priorities. We have got to do better.

That is why I am deeply grateful to the professionals and parents in the Shenandoah Community School District. There is no question that a quality public education for every child is a top priority in that community. I salute them, and wish them a very successful new school year.●

## SOUTH PAGE COMMUNITY EDUCATION

● Mr. HARKIN. Mr. President, in Iowa and across the United States, a new school year has begun. As you know, Iowa public schools have an excellent reputation nationwide, and Iowa students' test scores are among the highest in the Nation.

I would like to take just a few minutes, today, to salute the dedicated teachers, administrators, and school board members in the South Page Community School District, and to report on their participation in a unique Federal partnership to repair and modernize school facilities.

This fall marks the 10th year of the Iowa Demonstration Construction Grant Program. That is its formal name, but it is better known among educators in Iowa as the program of Harkin grants for Iowa public schools. Since 1998, I have been fortunate to secure a total of $121 million for the State government in Iowa, which selects worthy school districts to receive these grants for a range of renovation and repair efforts—everything from updating fire-safety systems to building new schools or renovating existing facilities. In many cases, this Federal funding is used to leverage public and/or private local funding, so it often has a tremendous multiplier effect in a local school district.

The South Page Community School District received a 2002 Harkin grant totaling $298,650 which was used to help make improvements on the K–12 building. The district also received a $50,000 fire safety grant that was used to replace and repair exit lighting and smoke detectors. The Federal grants have made it possible for the district to provide quality and safe schools for their students.

Excellent schools do not just pop up like mushrooms after a rain. They are the product of vision, leadership, persistence, and a tremendous amount of collaboration among local officials and concerned citizens. I salute the entire staff, administration, and governance in the South Page Community School District. In particular, I would like to recognize the leadership of the board of education—president Ellen Nothwehr, Junior Niehart, Ron Peterman, Deb Wallin and Karl Kenagy as well as former board members—Terry Carlson, Larry Murphy and Brenda Swanson. I would also like to recognize superintendant Joy Jones and former superintendent Iner Joelson.

As we mark the 10th anniversary of the Harkin school grant program in Iowa, I am obliged to point out that many thousands of school buildings and facilities across the United States are in dire need of renovation or replacement. In my State of Iowa alone, according to a recent study, some 79 percent of public schools need to be upgraded or repaired. The harsh reality is that the average age of school buildings in the United States is nearly 50 years.

Too often, our children visit ultramodern shopping malls and gleaming sports arenas on weekends, but during the week go to school in rundown or antiquated facilities. This sends exactly the wrong message to our young people about our priorities. We have got to do better.

That is why I am deeply grateful to the professionals and parents in the South Page Community School District. There is no question that a quality public education for every child is a top priority in that community. I salute them, and wish them a very successful new school year.●

## HONORING TAMMY CHASE

● Mr. JOHNSON. Mr. President, I wish to pay tribute to Sisseton resident Tammy Chase and her dedicated service to the South Dakota National Guard. Serving as the family readiness group leader, Tammy provides support to units, servicemembers, and families throughout South Dakota. When a soldier serves overseas, his or her family and friends must assume additional responsibilities and sacrifices. Thanks to the work of Tammy, and the family

readiness group, South Dakota National Guard families are provided with an extended network of support and resources to help them through their time apart. Among her many tasks, Tammy maintains the telephone tree, publishes newsletters, provides baked goods to soldiers at monthly drills, organizes family events, and prepares families for possible deployments. Countless lives have been touched by her efforts.

Tammy is dedicated and committed to her volunteer work; she has been the family readiness group leader for the past 11 years. She was recently recognized for her efforts when she was presented with the AMVETS PNC John S. Lorec National Guard Volunteer of the Year award at the National Guard Family Program conference in St. Louis, MO.

I am pleased that Tammy's efforts are being publicly honored and celebrated with this prestigious award. I applaud her for her years of hard work. Tammy's work in our communities and State is a testament to her selfless service to our country. Tammy's efforts on behalf of all those that are currently serving in the National Guard are a shining example of patriotism, and we can all be inspired by her dedication and service.●

## 125TH ANNIVERSARY OF THE FOUNDING OF UNIVERSITY OF SIOUX FALLS

● Mr. JOHNSON. Mr. President, today I wish to recognize the 125th anniversary of the founding of University of Sioux Falls. Over the course of its history, USF has continuously produced extraordinary graduates with a Christian liberal arts education. In the modern, high-tech, and competitive environment in which we live, USF students are equipped with the skills that are essential for success.

In education, technology, and research, USF is at the forefront of academic and cultural achievement, with enrollment now at 1,700 and a diverse student body from over 20 States. For 125 years, the university has helped students realize their potential by offering them a quality education and a positive social and religious environment. USF graduates are well-equipped to succeed in a competitive world, delivering countless benefits to organizations and communities close to home and around the globe.

I am proud to have this opportunity to honor the University of Sioux Falls for its 125 years of outstanding service. I strongly commend their hard work and dedication, and I am very pleased that their substantial efforts are being publicly honored and celebrated.●

## TRIBUTE TO RICK AND KATHY CLARKE

● Mr. INHOFE. Mr. President, I rise to honor two great Oklahomans, Rick and Kathy Clarke, who are in Washington, DC, for the Congressional Coalition on Adoption Institute's annual Angels in Adoption Gala. I was pleased to select Rick and Kathy as 2008 Angels in Adoption because of their great commitment to adoption at both a personal and professional level.

When Rick Clarke served for 5 years as a judge in juvenile court, working with abused and neglected children every day, both he and his wife, Kathy, formed a desire to help children who are most in need—those without families. Today, Rick dedicates part of law practice to adoption cases. He serves as a volunteer attorney through Tulsa Lawyers for Children, as a guardian ad litem through court appointments, and is on the board of Heritage Family Services, a Tulsa-based adoption agency. Kathy has served as a Court Appointed Special Advocate for children. She also currently works on special education issues and is a member of the PTA.

However, it is this family's personal story that sets it apart. The Clarkes have personally participated in the adoption process for 13 years and have adopted nine children. Throughout these years, the Clarke family has faced tragedies, hardships, and obstacles. Yet they continue to grow as a family, both in number and in character.

The Clarke's first adopted child was a 3-year-old boy from Oklahoma. The next two young children joined the family from Russia after being diagnosed with medical complications. The Clarkes later adopted three unrelated girls—aged 15, 13, and 8—through Oklahoma Department of Human Services. Lastly, they provided homes to two sisters from Liberia and an older boy from Ethiopia.

The faith and perseverance of Rick and Kathy Clarke enables them to overcome the challenges of providing a permanent and loving home to so many children. Remaining steadfast in their dedication and belief that God has a special plan for every child, Rick and Kathy have raised each of their nine children to be productive, healthy, and strong leaders in their schools and communities.

The Clarkes truly represent the blessings and the power of adoption. I am pleased to congratulate Rick and Kathy Clarke, Oklahoma's 2008 Angels in Adoption, and to welcome them to our Nation's Capital for this special honor.●

## TRIBUTE TO HAROLD O. BOURNE

● Mr. KOHL. Mr. President, several weeks back I had the great pleasure of visiting with a constituent I would like to honor today. Milwaukee resident Harold O. Bourne recently received the Federal Aviation Administration's Wright Brothers Master Pilot award for flying 50 years without incident.

Mr. Bourne has given much to his country over the years. He enlisted in the U.S. Army in 1951, entered flight school in 1953 and served one tour in Korea, two tours in Germany and two tours in Vietnam. In 1980, after 30 years of service he retired from the Army as a lieutenant colonel and master army aviator. Upon his retirement, he moved to Milwaukee where his love for and expertise in aviation was put to good use. Mr. Bourne embarked on what would become a 20-year career with Astronautics Corporation of America, a world leader in supplying military and commercial electronics for aviation.

At 78, Mr. Bourne is still flying. He is a gentleman in the truest sense of the word. Harold and his wife of 57 years, Anne, have given much of themselves over the years, not only to aviation but to their community and their church. And for that I congratulate and honor them.●

## TRIBUTE TO MARK MILLAR

● Ms. SNOWE. Mr. President, I congratulate Mark Millar on receiving the 2008 Angels in Adoption Award, a tremendous honor that highlights his tireless commitment to achieving permanent family connections for children in foster care in Maine. What a well-deserved accolade for such an ennobling endeavor.

Mark Millar began his career as a protective services worker and has been a critical part of Casey Family Services in Portland for more than 20 years. In that time, he and his dedicated staff have helped transform the lives of countless families, by promoting kinship care, providing counseling and other services to strengthen families postadoption, and helping Maine reduce the amount of time required to reach legal permanence when a child enters foster care.

Undoubtedly, we as a nation can and must do more to better equip families who sacrifice so much to provide safe, loving homes for children in foster care. For many families, the decision to open their home to a child is easy, but it can also be emotionally trying and financially taxing. That's why Mark Millar's work at Casey Family Services is so indispensable and profoundly worthy of this distinction. At a time where Federal dollars for child welfare services are regrettably too few, Mark Millar and Casey Family Services offer families a support system that is dependable and viable.

Mark Millar has also performed remarkable work in helping teens prepare for the challenges of adulthood, whether though his efforts with the First Jobs program, which provides initial and transitional employment opportunities at Hannaford for youth aged 15–21, or Casey's outdoor work-readiness and skill development program. And he has been selfless in his extraordinary contributions and inspiring through the power of his benevolent example. In short, Mark understands and lives out what American novelist, Herman Melville, once eloquently described in words . . . ''We

cannot live for ourselves alone. Our lives are connected by a thousand invisible threads, and along these sympathetic fibers, our actions run as causes and return to us as results.''

Championing the cause of children and garnering tangible results that effect the everyday lives of many Mainers are the true measure of Mark's phenomenal trajectory of accomplishment in helping others. And so, we couldn't be more grateful to Mark for what has given and continues to give back to Maine, and I couldn't be more pleased about this tribute bestowed upon him which is a fitting recognition of all he has achieved on behalf of all whom he has served.●

## TRIBUTE TO JACK VAN DER GEEST

● Mr. THUNE. Mr. President, today I recognize the 85th birthday of Jack van der Geest of Rapid City, SD. A native of the Netherlands and author of ''Was God on Vacation?'', Jack's life story is a heroic depiction of courage and the willingness to act against the evils that threaten our world and our freedoms.

Born in the Netherlands in 1923, Jack's younger years witnessed the horrifying and devastating effect of Nazi Germany in Europe. Jack endured many trials and tribulations after the Nazis invaded his homeland in 1940; however, none of them would prove to break Jack's spirit of perseverance. After his capture, Jack's resilience served him well as he became one of only eight prisoners to escape from the Buchenwald concentration camp.

Following Jack's escape from terror in the heart of Nazi Germany, he further pledged his services to fight the Nazi occupation throughout Europe. Jack joined the French Underground and helped Allied paratroopers escape capture in Vichy, France. Soon after, Jack arrived in England where he became an interpreter for the storied 101st Airborne. Jack eventually immigrated to America and became a United States citizen in 1953.

In 1995, Jack authored the book ''Was God on Vacation?'', an autobiography of his life during World War II. This astonishing work gives an in-depth account of Jack's struggles and endeavors from 1940–1947. Jack's testimony truly shines a light on the persecution and challenges many Europeans endured during World War II and how some fought dearly to repel the Nazi aggressors. The story of Jack van der Geest reminds us to never take for granted the freedoms that so many have fought for in our armed services and around the world.

I would like to send my heartfelt congratulations to Jack on his 85th birthday and thank him for telling his story and allowing us all to never forget how fortunate we are to be free.●

## RECOGNIZING ARMOUR ELEMENTARY SCHOOL

● Mr. THUNE. Mr. President, today I recognize Armour Elementary School for being named a 2008 No Child Left Behind-Blue Ribbon School. The commitment to quality education that has been shown by the faculty, teachers and students at Armour Elementary School is truly invaluable in shaping the future leaders of this country. The work that they are doing to meet higher achievement standards and greater accountability serves as a model to other schools throughout our State and Nation.

Again, congratulations to Armour Elementary School for being named a blue ribbon school and for making South Dakota proud.●

## RECOGNIZING WHITEWOOD ELEMENTARY SCHOOL

● Mr. THUNE. Mr. President, today I recognize Whitewood Elementary School for being named a 2008 No Child Left Behind-Blue Ribbon School. The commitment to quality education that has been shown by the faculty, teachers and students at Whitewood Elementary School is truly invaluable in shaping the future leaders of this country. The work that they are doing to meet higher achievement standards and greater accountability serves as a model to other schools throughout our State and Nation.

Again, congratulations to Whitewood Elementary School for being named a blue ribbon school and for making South Dakota proud.●

## MESSAGES FROM THE PRESIDENT

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

## EXECUTIVE MESSAGES REFERRED

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

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

## MESSAGES FROM THE HOUSE

### ENROLLED BILLS SIGNED

At 11:05 a.m., a message from the House of Representatives, delivered by Ms. Brandon, one of its reading clerks, announced that the Speaker has signed the following enrolled bills:

S. 2403. An act to designate the United States courthouse located in the 700 block of East Broad Street, Richmond, Virginia, as the ''Spottswood W. Robinson III and Robert R. Merhige Jr., United States Courthouse''.

S. 2617. An act to amend title 38, United States Code, to codify increases 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 that were effective as of December 1, 2007, to provide for an increase in the rates of such compensation effective December 1, 2008, and for other purposes.

The enrolled bills were subsequently signed by the President pro tempore (Mr. BYRD).

At 6:18 p.m., a message from the House of Representatives, delivered by Mrs. Cole, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 5167. An act to terminate the authority of the President to waive, with regard to Iraq, certain provisions under the National Defense Authorization Act for Fiscal Year 2008 unless certain conditions are met.

H.R. 6889. An act to extend the authority of the Secretary of Education to purchase guaranteed student loans for an additional year, and for other purposes.

The message also announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 390. Concurrent resolution honoring the 28th Infantry Division for serving and protecting the United States.

The message further announced that the House agrees to the amendments of the Senate to the bill (H.R. 5938) to amend title 18, United States Code, to provide secret service protection to former Vice Presidents, and for other purposes.

## MEASURES REFERRED

The following bill was read the first and the second times by unanimous consent, and referred as indicated:

H.R. 5167. An act to amend the National Defense Authorization Act for Fiscal Year 2008 to remove the authority of the President to waive certain provisions; to the Committee on Armed Services.

The following concurrent resolution was read, and referred as indicated:

H. Con. Res. 390. Concurrent resolution honoring the 28th Infantry Division for serving and protecting the United States; to the Committee on Armed Services.

## ENROLLED BILLS PRESENTED

The Secretary of the Senate reported that on September 16, 2008, she had presented to the President of the United States the following enrolled bills:

S. 2403. An act to designate the United States courthouse located in the 700 block of East Broad Street, Richmond, Virginia, as the ''Spottswood W. Robinson III and Robert R. Merhige, Jr., United States Courthouse''.

S. 2617. An act to amend title 38, United States Code, to codify increases 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 that were effective as of December 1, 2007, to provide for an increase in the rates of such compensation effective December 1, 2008, and for other purposes.

## REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. BIDEN, from the Committee on Foreign Relations, without amendment:

S. 3168. A bill to authorize United States participation in the replenishment of resources of the International Development Association, and for other purposes (Rept. No. 110-464).

By Mr. LIEBERMAN, from the Committee on Homeland Security and Governmental Affairs, with an amendment:

S. 2321. A bill to amend the E-Government Act of 2002 (Public Law 107–347) to reauthorize appropriations, and for other purposes (Rept. No. 110–465).

By Mr. LIEBERMAN, from the Committee on Homeland Security and Governmental Affairs, without amendment:

S. 2816. A bill to provide for the appointment of the Chief Human Capital Officer of the Department of Homeland Security by the Secretary of Homeland Security (Rept. No. 110–466).

By Mr. BAUCUS, from the Committee on Finance, with an amendment in the nature of a substitute:

S. 3038. A bill to amend part E of title IV of the Social Security Act to extend the adoption incentives program, to authorize States to establish a relative guardianship program, to promote the adoption of children with special needs, and for other purposes (Rept. No. 110–467).

By Mr. BINGAMAN, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute:

H.R. 29. A bill to authorize the Secretary of the Interior to construct facilities to provide water for irrigation, municipal, domestic, military, and other uses from the Santa Margarita River, California, and for other purposes.

By Mr. BINGAMAN, from the Committee on Energy and Natural Resources, without amendment:

H.R. 31. A bill to amend the Reclamation Wastewater and Groundwater Study and Facilities Act to authorize the Secretary of the Interior to participate in the Elsinore Valley Municipal Water District Wildomar Service Area Recycled Water Distribution Facilities and Alberhill Wastewater Treatment and Reclamation Facility Projects.

H.R. 236. A bill to authorize the Secretary of the Interior to create a Bureau of Reclamation partnership with the North Bay Water Reuse Authority and other regional partners to achieve objectives relating to water supply, water quality, and environmental restoration.

By Mr. BINGAMAN, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute:

H.R. 813. A bill to amend the Reclamation Wastewater and Groundwater Study and Facilities Act to authorize the Secretary of the Interior to participate in the Prado Basin Natural Treatment System Project, to authorize the Secretary to carry out a program to assist agencies in projects to construct regional brine lines in California, to authorize the Secretary to participate in the Lower Chino Dairy Area desalination demonstration and reclamation project, and for other purposes.

By Mr. BINGAMAN, from the Committee on Energy and Natural Resources, with an amendment and an amendment to the title:

H.R. 816. A bill to provide for the release of certain land from the Sunrise Mountain Instant Study Area in the State of Nevada and to grant a right-of-way across the released land for the construction and maintenance of a flood control project.

By Mr. BINGAMAN, from the Committee on Energy and Natural Resources, with an amendment:

H.R. 838. A bill to provide for the conveyance of the Bureau of Land Management parcels known as the White Acre and Gambel Oak properties and related real property to Park City, Utah, and for other purposes.

By Mr. BINGAMAN, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute:

H.R. 903. A bill to provide for a study of options for protecting the open space characteristics of certain lands in and adjacent to the Arapaho and Roosevelt National Forests in Colorado, and for other purposes.

H.R. 1139. A bill to authorize the Secretary of the Interior to plan, design and construct facilities to provide water for irrigation, municipal, domestic, and other uses from the Bunker Hill Groundwater Basin, Santa Ana River, California, and for other purposes.

By Mr. BINGAMAN, from the Committee on Energy and Natural Resources, without amendment:

H.R. 1737. A bill to amend the Reclamation Wastewater and Groundwater Study and Facilities Act to authorize the Secretary of the Interior to participate in the design, planning, and construction of permanent facilities for the GREAT project to reclaim, reuse, and treat impaired waters in the area of Oxnard, California.

H.R. 1803. A bill to direct the Secretary of the Interior to conduct a feasibility study to design and construct a four reservoir intertie system for the purposes of improving the water storage opportunities, water supply reliability, and water yield of San Vicente, El Capitan, Murray, and Loveland Reservoirs in San Diego County, California in consultation and cooperation with the City of San Diego and the Sweetwater Authority, and for other purposes.

H.R. 2246. A bill to provide for the release of any reversionary interest of the United States in and to certain lands in Reno, Nevada.

H.R. 2614. A bill to amend the Reclamation Wastewater and Groundwater Study and Facilities Act to authorize the Secretary of the Interior to participate in certain water projects in California.

By Mr. BINGAMAN, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute:

H.R. 2632. A bill to establish the Sabinoso Wilderness Area in San Miguel County, New Mexico, and for other purposes.

By Mr. BINGAMAN, from the Committee on Energy and Natural Resources, with an amendment:

H.R. 3022. A bill to designate the John Krebs Wilderness in the State of California, to add certain land to the Sequoia-Kings Canyon National Park Wilderness, and for other purposes.

By Mr. BINGAMAN, from the Committee on Energy and Natural Resources, without amendment:

H.R. 3323. A bill to authorize the Secretary of the Interior to convey a water distribution system to the Goleta Water District, and for other purposes.

By Mr. BINGAMAN, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute:

H.R. 3473. A bill to provide for a land exchange with the City of Bountiful, Utah, involving National Forest System land in the Wasatch-Cache National Forest and to further land ownership consolidation in that national forest, and for other purposes.

By Mr. BINGAMAN, from the Committee on Energy and Natural Resources, with amendments:

H.R. 3490. A bill to transfer administrative jurisdiction of certain Federal lands from the Bureau of Land Management to the Bureau of Indian Affairs, to take such lands into trust for Tuolumne Band of Me-Wuk Indians of the Tuolumne Rancheria, and for other purposes.

H.R. 3682. A bill to designate certain Federal lands in Riverside County, California, as wilderness, to designate certain river segments in Riverside County as a wild, scenic, or recreational river, to adjust the boundary of the Santa Rosa and San Jacinto Mountains National Monument, and for other purposes.

By Mr. BINGAMAN, from the Committee on Energy and Natural Resources, without amendment:

H.R. 5137. A bill to ensure that hunting remains a purpose of the New River Gorge National River.

By Mr. BINGAMAN, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute:

S. 390. A bill to direct the exchange of certain land in Grand, San Juan, and Uintah Counties, Utah, and for other purposes.

S. 1477. A bill to authorize the Secretary of the Interior to carry out the Jackson Gulch rehabilitation project in the State of Colorado.

S. 1680. A bill to provide for the inclusion of certain non-Federal land in the Izembek National Wildlife Refuge and the Alaska Peninsula National Wildlife Refuge in the State of Alaska, and for other purposes.

S. 1756. A bill to provide supplemental ex gratia compensation to the Republic of the Marshall Islands for impacts of the nuclear testing program of the United States, and for other purposes.

S. 1816. A bill to authorize the Secretary of the Interior to establish a commemorative trail in connection with the Women's Rights National Historical Park to link properties that are historically and thematically associated with the struggle for women's suffrage, and for other purposes.

S. 2093. A bill to amend the Wild and Scenic Rivers Act to designate a segment of the Missisquoi and Trout Rivers in the State of Vermont for study for potential addition to the National Wild and Scenic Rivers System.

S. 2156. A bill to authorize and facilitate the improvement of water management by the Bureau of Reclamation, to require the Secretary of the Interior and the Secretary of Energy to increase the acquisition and analysis of water resources for irrigation, hydroelectric power, municipal, and environmental uses, and for other purposes.

By Mr. BINGAMAN, from the Committee on Energy and Natural Resources, with an amendment:

S. 2255. A bill to amend the National Trails System Act to provide for studies of the Chisholm Trail and Great Western Trail to determine whether to add the trails to the National Trails System, and for other purposes.

By Mr. BINGAMAN, from the Committee on Energy and Natural Resources, with amendments:

S. 2354. A bill to direct the Secretary of the Interior to convey 4 parcels of land from the Bureau of Land Management to the city of Twin Falls, Idaho.

By Mr. BINGAMAN, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute:

S. 2359. A bill to establish the St. Augustine 450th Commemoration Commission, and for other purposes.

By Mr. BINGAMAN, from the Committee on Energy and Natural Resources, without amendment:

S. 2448. A bill to amend the Surface Mining Control and Reclamation Act of 1977 to make certain technical corrections.

By Mr. BINGAMAN, from the Committee on Energy and Natural Resources, with amendments:

S. 2535. A bill to revise the boundary of the Martin Van Buren National Historic Site, and for other purposes.

By Mr. BINGAMAN, from the Committee on Energy and Natural Resources, without amendment:

S. 2561. A bill to require the Secretary of the Interior to conduct a theme study to identify sites and resources to commemorate and interpret the Cold War.

S. 2779. A bill to amend the Surface Mining Control and Reclamation Act of 1977 to clarify that uncertified States and Indian tribes have the authority to use certain payments for certain noncoal reclamation projects.

By Mr. BINGAMAN, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute:

S. 2805. A bill to direct the Secretary of the Interior, acting through the Commissioner of Reclamation, to assess the irrigation infrastructure of the Rio Grande Pueblos in the State of New Mexico and provide grants to, and enter into cooperative agreements with, the Rio Grande Pueblos to repair, rehabilitate, or reconstruct existing infrastructure, and for other purposes.

From the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute:

S. 2842. A bill to require the Secretary of the Interior to carry out annual inspections of canals, levees, tunnels, dikes, pumping plants, dams, and reservoirs under the jurisdiction of the Secretary, and for other purposes.

By Mr. BINGAMAN, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute:

S. 2875. A bill to authorize the Secretary of the Interior to provide grants to designated States and tribes to carry out programs to reduce the risk of livestock loss due to predation by gray wolves and other predator species or to compensate landowners for livestock loss due to predation.

By Mr. BINGAMAN, from the Committee on Energy and Natural Resources, with amendments:

S. 2943. A bill to amend the National Trails System Act to designate the Pacific Northwest National Scenic Trail.

By Mr. BINGAMAN, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute:

S. 2974. A bill to provide for the construction of the Arkansas Valley Conduit in the State of Colorado.

By Mr. BINGAMAN, from the Committee on Energy and Natural Resources, without amendment:

S. 3010. A bill to reauthorize the Route 66 Corridor Preservation Program.

By Mr. BINGAMAN, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute:

S. 3011. A bill to amend the Palo Alto Battlefield National Historic Site Act of 1991 to expand the boundaries of the historic site, and for other purposes.

S. 3017. A bill to designate the Beaver Basin Wilderness at Pictured Rocks National Lakeshore in the State of Michigan.

S. 3045. A bill to establish the Kenai Mountains-Turnagain Arm National Forest Heritage Area in the State of Alaska, and for other purposes.

S. 3051. A bill to authorize the Secretary of the Interior to study the suitability and feasibility of designating the site of the Battle of Camden in South Carolina, as a unit of the National Park System, and for other purposes.

S. 3065. A bill to establish the Dominguez-Escalante National Conservation Area and the Dominguez Canyon Wilderness Area.

S. 3069. A bill to designate certain land as wilderness in the State of California, and for other purposes.

S. 3085. A bill to require the Secretary of the Interior to establish a cooperative watershed management program, and for other purposes.

S. 3088. A bill to designate certain land in the State of Oregon as wilderness, and for other purposes.

S. 3089. A bill to designate certain land in the State of Oregon as wilderness, to provide for the exchange of certain Federal land and non-Federal land, and for other purposes.

By Mr. BINGAMAN, from the Committee on Energy and Natural Resources, without amendment:

S. 3096. A bill to amend the National Cave and Karst Research Institute Act of 1998 to authorize appropriations for the National Cave and Karst Research Institute.

By Mr. BINGAMAN, from the Committee on Energy and Natural Resources, with an amendment and an amendment to the title:

S. 3158. A bill to extend the authority for the Cape Cod National Seashore Advisory Commission.

By Mr. BINGAMAN, from the Committee on Energy and Natural Resources, with an amendment:

S. 3179. A bill to authorize the conveyance of certain public land in the State of New Mexico owned or leased by the Department of Energy, and for other purposes.

By Mr. BINGAMAN, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute:

S. 3189. A bill to amend Public Law 106–392 to require the Administrator of the Western Area Power Administration and the Commissioner of Reclamation to maintain sufficient revenues in the Upper Colorado River Basin Fund, and for other purposes.

By Mr. BINGAMAN, from the Committee on Energy and Natural Resources, with an amendment:

S. 3226. A bill to rename the Abraham Lincoln Birthplace National Historic Site in the State of Kentucky as the ''Abraham Lincoln Birthplace National Historical Park''.

By Mr. BINGAMAN, from the Committee on Energy and Natural Resources, without amendment:

S. 3499. An original bill to protect innocent Americans from violent crime in national parks.

## EXECUTIVE REPORTS OF COMMITTEE

The following executive reports of committee were submitted on September 16, 2008:

By Mr. BIDEN, from the Committee on Foreign Relations:

[Treaty Doc. 110–6 Amendment to Convention on Physical Protection of Nuclear Material with 1 reservation, 3 understandings, and 1 declaration (Ex. Rept. 110–24];

[Treaty Doc. 110–8 Protocols of 2005 to the Convention concerning Safety of Maritime Navigation and to the Protocol concerning Safety of Fixed Platforms on the Continental Shelf with reservations, understandings, and declarations (Ex. Rept. 110–25] and

[Treaty Doc. 106–1(A) The Hague Convention with 4 understandings and 1 declaration (Ex. Rept. 110–26)]

The text of the committee-recommended resolutions of advice and consent to ratification are as follows:

110–6: AMENDMENT TO CONVENTION ON PHYSICAL PROTECTION OF NUCLEAR MATERIAL

*Resolved (two-thirds of the Senators present concurring therein),*

Section 1. Senate Advice and Consent subject to a reservation, understandings, and a declaration.

The Senate advises and consents to the ratification of the Amendment to the Convention on the Physical Protection of Nuclear Material, adopted on July 8, 2005 (the ''Amendment'') (Treaty Doc. 110–6), subject to the reservation of section 2, the understandings of section 3, and the declaration of section 4.

Section 2. Reservation. The advice and consent of the Senate under section 1 is subject to the following reservation, which shall be included in the instrument of ratification:

Consistent with Article 17(3) of the Convention on the Physical Protection of Nuclear a enal, the United States of America declares that it does not consider itself bound by Article 17(2) of the Convention on the Physical Protection of Nuclear Material with respect to disputes concerning the interpretation or application of the Amendment.

Section 3. Understandings. The advice and consent of the Senate under section 1 is subject to the following understandings, which shall be included in the instrument of ratification:

(1) The United States of America understands that the term ''armed conflict'' in Paragraph 5 of the Amendment (Article 2 of the Convention on the Physical Protection of Nuclear Material, as amended) does not include internal disturbances and tensions, such as riots, isolated and sporadic acts of violence, and other acts of a similar nature.

(2) The United States of America understands that the term ''international humanitarian law in Paragraph 5 of the Amendment (Article 2 of the Convention on the Physical Protection of Nuclear Material, as amended) has the same substantive meaning as the law of war.

(3) The United States of America understands that, pursuant to Paragraph 5 of the Amendment (Article 2 of the Convention on the Physical Protection of Nuclear Material, as amended), the Convention on the Physical Protection of Nuclear Material, as amended, will not apply to: (a) the military forces of a State, which are the armed forces of a State organized, trained, and equipped under its internal law for the primary purpose of national defense or security, in the exercise of their official duties; (b) civilians who direct or organize the official activities of military forces of a State; or (c) civilians acting in support of the official activities of the military forces of a State, if the civilians are under the formal command, control, and responsibility of those forces.

Section 4. Declaration. The advice and consent of the Senate under section 1 is subject to the following declaration:

With the exception of the provisions that obligate the United States to criminalize certain of enses, make those offenses punishable by appropriate penalties, and authorize the assertion of jurisdiction over such offenses, this Amendment is self-executing. Included among the self-executing provisions are those provisions obligating the United States to treat certain offenses as extraditable offenses for purposes of bilateral extradition treaties. This Amendment does not confer private rights enforceable in United States courts.

110–8: PROTOCOLS OF 2005 TO THE CONVENTION CONCERNING SAFETY OF MARITIME NAVIGATION AND TO THE PROTOCOL CONCERNING SAFETY OF FIXED PLATFORMS ON THE CONTINENTAL SHELF

*Resolved (two-thirds of the Senators present concurring therein),*

Section 1. Senate Advice and Consent subject to a reservation, understandings, and a declaration.

The Senate advises and consents to the ratification of the Protocol of 2005 to the Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms

Located on the Continental Shelf, adopted on October 14, 2005, and signed on behalf of the United States of America on February 17, 2006 (the ''2005 Fixed Platforms Protocol'') (Treaty Doc. 110–8), subject to the reservation of section 2, the understandings of section 3, and the declaration of section 4.

Section 2. Reservation. The advice and consent of the Senate under section 1 is subject to the following reservation, which shall be included in the instrument of ratification:

Consistent with Article 16(2) of the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation, 2005, and incorporated by Article 2 of the 2005 Fixed Platforms Protocol, the United States of America declares that it does not consider itself bound by Article 16(1) of the Convention and incorporated by Article 2 of the 2005 Fixed Platforms Protocol, with respect to disputes concerning the interpretation or application of the Protocol of 2005 to the Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf.

Section 3. Understandings. The advice and consent of the Senate under section 1 is subject to the following understandings, which shall be included in the instrument of ratification:

(1) The United States of America understands that the term ''armed conflict'' as used in paragraph 2 of Article 2bis of the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation, 2005, and incorporated by Article 2 of the 2005 Fixed Platforms Protocol, does not include internal disturbances and tensions, such as riots, isolated and sporadic acts of violence, and other acts of a similar nature.

(2) The United States of America understands that the term ''international humanitarian law,'' as used in paragraphs 1 and 2 of Article 2bis of the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation, 2005, and incorporated by Article 2 of the 2005 Fixed Platforms Protocol, has the same substantive meaning as the ''law of war.''

(3) The United States of America understands that, pursuant to paragraph 2 of Article 2bis of the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation, 2005, and incorporated by Article 2 of the 2005 Fixed Platforms Protocol, the Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf, 2005, does not apply to: (a) the military forces of a State, which are the armed forces of a State organized, trained, and equipped under its internal law for the primary purpose of national defense or security, in the exercise of their official duties; (b) civilians who direct or organize the official activities of military forces of a State; or (c) civilians acting in support of the official activities of the military forces of a State, if the civilians are under the formal command, control, and responsibility of those forces.

(4) The United States of America understands that current United States law with respect to the rights of persons in custody and persons charged with crimes fulfills the requirement in paragraph 2 of Article 10 of the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation, 2005, and incorporated by Article 2 of the 2005 Fixed Platforms Protocol, and, accordingly, the United States does not intend to enact new legislation to fulfill its obligations under this Article.

Section 4. Declaration. The advice and consent of the Senate under section 1 is subject to the following declaration:

With the exception of the provisions that obligate the United States to criminalize certain offenses, make those offenses punishable by appropriate penalties, and authorize the assertion of jurisdiction over such offenses, the 2005 Fixed Platforms Protocol is self-executing. Included among the self-executing provisions are those provisions obligating the United States to treat certain offenses as extraditable offenses for purposes of bilateral extradition treaties. None of the provisions of the 2005 Fixed Platforms Protocol, including those incorporating by reference Articles 7 and 10 of the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation, 2005, confer private rights enforceable in United States courts.

106–1(A): THE HAGUE CONVENTION

*Resolved (two-thirds of the Senators present concurring therein),*

That the Senate advises and consents to the ratification of the Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict (the Convention) concluded on May 14, 1954, and entered into force on August 7, 1956 with accompanying report from the Department of State.

*Resolved (two-thirds of the Senators present concurring therein),*

Section 1. Senate Advice and Consent subject to understandings and a declaration.

The Senate advises and consents to the ratification of the Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict, concluded on May 14, 1954 (Treaty Doc. 106–1(A)), subject to the understandings of section 2 and the declaration of section 3.

Section 2. Understandings. The advice and consent of the Senate under section 1 is subject to the following understandings, which shall be included in the instrument of ratification:

(1) It is the understanding of the United States of America that ''special protection,'' as defined in Chapter II of the Convention, codifies customary international law in that it, first, prohibits the use of any cultural property to shield any legitimate military targets from attack and, second, allows all property to be attacked using any lawful and proportionate means, if required by military necessity and notwithstanding possible collateral damage to such property.

(2) It is the understanding of the United States of America that any decision by any military commander, military personnel, or any other person responsible for planning, authorizing, or executing military action or other activities covered by this Convention shall only be judged on the basis of that person's assessment of the information reasonably available to the person at the time the person planned, authorized, or executed the action under review, and shall not be judged on the basis of information that comes to light after the action under review was taken.

(3) It is the understanding of the United States of America that the rules established by the Convention apply only to conventional weapons, and are without prejudice to the rules of international law governing other types of weapons, including nuclear weapons.

(4) It is the understanding of the United States of America that, as is true for all civilian objects, the primary responsibility for the protection of cultural objects rests with the Party controlling that property, to ensure that it is properly identified and that it is not used for an unlawful purpose.

Section 3. Declaration. The advice and consent of the Senate under section 1 is subject to the following declaration:

With the exception of the provisions that obligate the United States to impose sanctions on persons who commit or order to be committed a breach of the Convention, this Convention is self-executing. This Convention does not confer private rights enforceable in United States courts.

## 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. STEVENS (for himself, Mr. INOUYE, and Mr. SMITH):

S. 3491. A bill to amend the Communications Act of 1934 to improve the effectiveness of rural health care support under section 254(h) of that Act; to the Committee on Commerce, Science, and Transportation.

By Mrs. LINCOLN (for herself, Mr. ROCKEFELLER, Ms. COLLINS, Ms. LANDRIEU, Mr. BAYH, Mr. CASEY, and Mr. JOHNSON):

S. 3492. A bill to amend part E of title IV of the Social Security Act to ensure States follow best policies and practices for supporting and retaining foster parents and to require the Secretary of Health and Human Services to award grants to States to improve the empowerment, leadership, support, training, recruitment, and retention of foster care, kinship care, and adoptive parents; to the Committee on Finance.

By Mrs. FEINSTEIN (for herself and Mrs. BOXER):

S. 3493. A bill to require rail carriers to develop positive rail control system plans for improving railroad safety and to increase the civil penalties for railroad safety violations; to the Committee on Commerce, Science, and Transportation.

By Mrs. BOXER:

S. 3494. A bill to restore the value of every American in environmental decisions, and for other purposes; to the Committee on Environment and Public Works.

By Mrs. BOXER (for herself, Mrs. CLINTON, Mr. CARDIN, and Mr. WHITEHOUSE):

S. 3495. A bill to protect pregnant women and children from dangerous lead exposures; to the Committee on Environment and Public Works.

By Mrs. BOXER:

S. 3496. A bill to address the health and economic development impact of nonattainment of federally mandated air quality standards in the San Joaquin Valley, California, by designating air quality empowerment zones; to the Committee on Environment and Public Works.

By Mrs. CLINTON:

S. 3497. A bill to amend the Food and Nutrition Act of 2008 to decrease the period of benefit ineligibility of certain adults due to unemployment; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. VOINOVICH (for himself, Mr. BROWN, Mr. HARKIN, Mr. COCHRAN, Mr. VITTER, Mr. OBAMA, Mr. BAYH, and Mr. LUGAR):

S. 3498. A bill to amend title 46, United States Code, to extend the exemption from the fire-retardant materials construction requirement for vessels operating within the Boundary Line; to the Committee on Commerce, Science, and Transportation.

By Mr. BINGAMAN:

S. 3499. An original bill to protect innocent Americans from violent crime in national parks; from the Committee on Energy and Natural Resources; placed on the calendar.

By Mr. LAUTENBERG (for himself, Mrs. BOXER, Mr. VITTER, and Mr. INHOFE):

S. 3500. A bill to amend the Federal Water Pollution Control Act and the Safe Drinking

Water Act to improve water and wastewater infrastructure in the United States; to the Committee on Environment and Public Works.

By Mr. FEINGOLD (for himself and Mrs. FEINSTEIN):

S. 3501. A bill to ensure that Congress is notified when the Department of Justice determines that the Executive Branch is not bound by a statute; to the Committee on the Judiciary.

By Mrs. CLINTON:

S. 3502. A bill to provide for the establishment of a task force to address the environmental health and safety risks posed to children, and for other purposes; to the Committee on Homeland Security and Governmental Affairs.

## SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

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

By Mr. BIDEN (for himself, Mrs. CLINTON, Mr. KERRY, Ms. MIKULSKI, and Ms. STABENOW):

S. Res. 662. A resolution raising the awareness of the need for crime prevention in communities across the country and designating the week of October 2, 2008, through October 4, 2008, as ''Celebrate Safe Communities'' week; to the Committee on the Judiciary.

By Mr. HAGEL:

S. Con. Res. 99. A concurrent resolution honoring the University of Nebraska at Omaha for its 100 years of commitment to higher education; to the Committee on Health, Education, Labor, and Pensions.

## ADDITIONAL COSPONSORS

S. 211

At the request of Mrs. CLINTON, the name of the Senator from New York (Mr. SCHUMER) was added as a cosponsor of S. 211, a bill to facilitate nationwide availability of 2-1-1 telephone service for information and referral on human services. volunteer services, and for other purposes.

S. 625

At the request of Mr. REID, the name of the Senator from Missouri (Mrs. MCCASKILL) was added as a cosponsor of S. 625, a bill to protect the public health by providing the Food and Drug Administration with certain authority to regulate tobacco products.

S. 826

At the request of Mr. MENENDEZ, the names of the Senator from Wyoming (Mr. ENZI) and the Senator from Washington (Ms. CANTWELL) were added as cosponsors of S. 826, a bill to posthumously award a Congressional gold medal to Alice Paul, in recognition of her role in the women's suffrage movement and in advancing equal rights for women.

S. 1232

At the request of Mr. DODD, the name of the Senator from Oregon (Mr. WYDEN) was added as a cosponsor of S. 1232, a bill to direct the Secretary of Health and Human Services, in consultation with the Secretary of Education, to develop a voluntary policy for managing the risk of food allergy and anaphylaxis in schools, to establish school-based food allergy management grants, and for other purposes.

S. 1243

At the request of Mr. KERRY, the name of the Senator from Iowa (Mr. HARKIN) was added as a cosponsor of S. 1243, a bill to amend title 10, United States Code, to reduce the age for receipt of military retired pay for nonregular service from 60 years of age to 55 years of age.

S. 1328

At the request of Mr. LEAHY, the name of the Senator from Washington (Ms. CANTWELL) was added as a cosponsor of S. 1328, a bill to amend the Immigration and Nationality Act to eliminate discrimination in the immigration laws by permitting permanent partners of United States citizens and lawful permanent residents to obtain lawful permanent resident status in the same manner as spouses of citizens and lawful permanent residents and to penalize immigration fraud in connection with permanent partnerships.

S. 1376

At the request of Mr. BINGAMAN, the name of the Senator from New York (Mr. SCHUMER) was added as a cosponsor of S. 1376, a bill to amend the Public Health Service Act to revise and expand the drug discount program under section 340B of such Act to improve the provision of discounts on drug purchases for certain safety net provides.

S. 1514

At the request of Mr. DODD, the name of the Senator from North Dakota (Mr. DORGAN) was added as a cosponsor of S. 1514, a bill to revise and extend provisions under the Garrett Lee Smith Memorial Act.

S. 1556

At the request of Mr. SMITH, the name of the Senator from California (Mrs. FEINSTEIN) was added as a cosponsor of S. 1556, a bill to amend the Internal Revenue Code of 1986 to extend the exclusion from gross income for employer-provided health coverage to designated plan beneficiaries of employees, and for other purposes.

S. 1627

At the request of Mrs. LINCOLN, the name of the Senator from Connecticut (Mr. LIEBERMAN) was added as a cosponsor of S. 1627, a bill to amend the Internal Revenue Code of 1986 to extend and expand the benefits for businesses operating in empowerment zones, enterprise communities, or renewal communities, and for other purposes.

S. 1738

At the request of Mr. BIDEN, the names of the Senator from Michigan (Ms. STABENOW), the Senator from Wisconsin (Mr. KOHL), the Senator from Delaware (Mr. CARPER), the Senator from Nebraska (Mr. HAGEL) and the Senator from Rhode Island (Mr. REED) were added as cosponsors of S. 1738, a bill to establish a Special Counsel for Child Exploitation Prevention and Interdiction within the Office of the Deputy Attorney General, to improve the Internet Crimes Against Children Task Force, to increase resources for regional computer forensic labs, and to make other improvements to increase the ability of law enforcement agencies to investigate and prosecute predators.

S. 2579

At the request of Mr. INOUYE, the names of the Senator from Rhode Island (Mr. WHITEHOUSE), the Senator from West Virginia (Mr. ROCKEFELLER) and the Senator from Maryland (Ms. MIKULSKI) were added as cosponsors of S. 2579, a bill to require the Secretary of the Treasury to mint coins in recognition and celebration of the establishment of the United States Army in 1775, to honor the American soldier of both today and yesterday, in wartime and in peace, and to commemorate the traditions, history, and heritage of the United States Army and its role in American society, from the colonial period to today.

S. 2639

At the request of Mr. JOHNSON, the name of the Senator from New Jersey (Mr. MENENDEZ) was added as a cosponsor of S. 2639, a bill to amend title 38, United States Code, to provide for an assured adequate level of funding for veterans health care.

S. 2668

At the request of Mr. ENSIGN, the name of the Senator from Wyoming (Mr. ENZI) was added as a cosponsor of S. 2668, a bill to amend the Internal Revenue Code of 1986 to remove cell phones from listed property under section 280F.

S. 2817

At the request of Mr. SALAZAR, the name of the Senator from Florida (Mr. NELSON) was added as a cosponsor of S. 2817, a bill to establish the National Park Centennial Fund, and for other purposes.

S. 2970

At the request of Mr. REID, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. 2970, a bill to enhance the ability of drinking water utilities in the United States to develop and implement climate change adaptation programs and policies, and for other purposes.

S. 3038

At the request of Mr. GRASSLEY, the name of the Senator from Nebraska (Mr. NELSON) was added as a cosponsor of S. 3038, a bill to amend part E of title IV of the Social Security Act to extend the adoption incentives program, to authorize States to establish a relative guardianship program, to promote the adoption of children with special needs, and for other purposes.

S. 3140

At the request of Mr. WEBB, the name of the Senator from Connecticut (Mr. LIEBERMAN) was added as a cosponsor of S. 3140, a bill to provide that 4 of the 12 weeks of parental leave made available to a Federal employee shall be paid leave, and for other purposes.

S. 3237

At the request of Mr. CASEY, the name of the Senator from Arkansas (Mrs. LINCOLN) was added as a cosponsor of S. 3237, a bill to assist volunteer fire companies in coping with the precipitous rise in fuel prices.

S. 3266

At the request of Mr. WARNER, the name of the Senator from Alabama (Mr. SESSIONS) was added as a cosponsor of S. 3266, a bill to require Congress and Federal departments and agencies to reduce the annual consumption of gasoline of the Federal Government.

S. 3277

At the request of Mr. MENENDEZ, the name of the Senator from Maine (Ms. SNOWE) was added as a cosponsor of S. 3277, a bill to amend title 31 of the United States Code to require that Federal children's programs be separately displayed and analyzed in the President's budget.

S. 3311

At the request of Mr. DURBIN, the name of the Senator from North Dakota (Mr. DORGAN) was added as a cosponsor of S. 3311, a bill to amend the Public Health Service Act to improve mental and behavioral health services on college campuses.

S. 3344

At the request of Mr. COBURN, the name of the Senator from Arizona (Mr. KYL) was added as a cosponsor of S. 3344, a bill to defend against child exploitation and child pornography through improved Internet Crimes Against Children task forces and enhanced tools to block illegal images, and to eliminate the unwarranted release of convicted sex offenders.

S. 3356

At the request of Mr. ISAKSON, the names of the Senator from Arizona (Mr. KYL), the Senator from Kentucky (Mr. BUNNING), the Senator from Oregon (Mr. SMITH), the Senator from Wyoming (Mr. ENZI), the Senator from Indiana (Mr. LUGAR), the Senator from Tennessee (Mr. CORKER), the Senator from Idaho (Mr. CRAIG), the Senator from Alaska (Mr. STEVENS), the Senator from Utah (Mr. HATCH), the Senator from Oklahoma (Mr. INHOFE), the Senator from Oklahoma (Mr. COBURN), the Senator from North Carolina (Mr. BURR), the Senator from Alabama (Mr. SHELBY), the Senator from North Carolina (Mrs. DOLE), the Senator from Ohio (Mr. VOINOVICH), the Senator from Kentucky (Mr. MCCONNELL), the Senator from Maine (Ms. COLLINS), the Senator from Alaska (Ms. MURKOWSKI), the Senator from South Carolina (Mr. DEMINT), the Senator from South Dakota (Mr. THUNE), the Senator from Wyoming (Mr. BARRASSO), the Senator from Maine (Ms. SNOWE), the Senator from Pennsylvania (Mr. SPECTER), the Senator from Colorado (Mr. ALLARD), the Senator from New Hampshire (Mr. GREGG), the Senator from Kansas (Mr. ROBERTS), the Senator from New Hampshire (Mr. SUNUNU), the Senator from Virginia (Mr. WARNER), the Senator from Mississippi (Mr. WICKER), the Senator from Colorado (Mr. SALAZAR), the Senator from Minnesota (Ms. KLOBUCHAR), the Senator from Hawaii (Mr. INOUYE), the Senator from Hawaii (Mr. AKAKA), the Senator from Nebraska (Mr. NELSON) and the Senator from Montana (Mr. TESTER) were added as cosponsors of S. 3356, a bill to require the Secretary of the Treasury to mint coins in commemoration of the legacy of the United States Army Infantry and the establishment of the National Infantry Museum and Soldier Center.

S. 3389

At the request of Mr. SCHUMER, the names of the Senator from Vermont (Mr. LEAHY) and the Senator from Connecticut (Mr. LIEBERMAN) were added as cosponsors of S. 3389, a bill to require, for the benefit of shareholders, the disclosure of payments to foreign governments for the extraction of natural resources, to allow such shareholders more appropriately to determine associated risks.

S. 3429

At the request of Mr. SCHUMER, the names of the Senator from Montana (Mr. TESTER), the Senator from Washington (Mrs. MURRAY) and the Senator from Delaware (Mr. BIDEN) were added as cosponsors of S. 3429, a bill to amend the Internal Revenue Code to provide for an increased mileage rate for charitable deductions.

S. 3458

At the request of Mr. BUNNING, the name of the Senator from Louisiana (Mr. VITTER) was added as a cosponsor of S. 3458, a bill to prohibit golden parachute payments for former executives and directors of Fannie Mae and Freddie Mac.

S. 3474

At the request of Mr. CARPER, the names of the Senator from Maine (Ms. COLLINS) and the Senator from Minnesota (Mr. COLEMAN) were added as cosponsors of S. 3474, a bill to amend title 44, United States Code, to enhance information security of the Federal Government, and for other purposes.

AMENDMENT NO. 5327

At the request of Mr. CHAMBLISS, the name of the Senator from Iowa (Mr. HARKIN) was added as a cosponsor of amendment No. 5327 intended to be proposed to S. 3001, an original bill to authorize appropriations for fiscal year 2009 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes.

AMENDMENT NO. 5444

At the request of Mr. WARNER, the name of the Senator from California (Mrs. FEINSTEIN) was added as a cosponsor of amendment No. 5444 intended to be proposed to S. 3001, an original bill to authorize appropriations for fiscal year 2009 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes.

AMENDMENT NO. 5445

At the request of Mr. BAYH, the name of the Senator from Ohio (Mr. BROWN) was added as a cosponsor of amendment No. 5445 intended to be proposed to S. 3001, an original bill to authorize appropriations for fiscal year 2009 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes.

AMENDMENT NO. 5493

At the request of Ms. MIKULSKI, her name and the name of the Senator from Maryland (Mr. CARDIN) were added as cosponsors of amendment No. 5493 intended to be proposed to S. 3001, an original bill to authorize appropriations for fiscal year 2009 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes.

AMENDMENT NO. 5499

At the request of Mr. WEBB, the names of the Senator from Maryland (Mr. CARDIN), the Senator from Nebraska (Mr. HAGEL) and the Senator from Rhode Island (Mr. REED) were added as cosponsors of amendment No. 5499 intended to be proposed to S. 3001, an original bill to authorize appropriations for fiscal year 2009 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes.

AMENDMENT NO. 5509

At the request of Mr. BAYH, the names of the Senator from Nebraska (Mr. NELSON), the Senator from Rhode Island (Mr. WHITEHOUSE), the Senator from North Carolina (Mrs. DOLE), the Senator from Delaware (Mr. BIDEN), the Senator from Michigan (Ms. STABENOW), the Senator from Pennsylvania (Mr. CASEY), the Senator from New Mexico (Mr. BINGAMAN), the Senator from Vermont (Mr. SANDERS), the Senator from Illinois (Mr. DURBIN) and the Senator from Connecticut (Mr. DODD) were added as cosponsors of amendment No. 5509 intended to be proposed to S. 3001, an original bill to authorize appropriations for fiscal year 2009 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes.

AMENDMENT NO. 5510

At the request of Mr. WHITEHOUSE, his name was added as a cosponsor of amendment No. 5510 intended to be proposed to S. 3001, an original bill to authorize appropriations for fiscal year

2009 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes.

AMENDMENT NO. 5520

At the request of Mr. KERRY, the name of the Senator from Maryland (Mr. CARDIN) was added as a cosponsor of amendment No. 5520 intended to be proposed to S. 3001, an original bill to authorize appropriations for fiscal year 2009 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes.

AMENDMENT NO. 5541

At the request of Mrs. FEINSTEIN, the name of the Senator from Florida (Mr. MARTINEZ) was added as a cosponsor of amendment No. 5541 intended to be proposed to S. 3001, an original bill to authorize appropriations for fiscal year 2009 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes.

AMENDMENT NO. 5550

At the request of Mr. DOMENICI, the names of the Senator from Kentucky (Mr. BUNNING) and the Senator from Idaho (Mr. CRAPO) were added as cosponsors of amendment No. 5550 intended to be proposed to S. 3001, an original bill to authorize appropriations for fiscal year 2009 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes.

AMENDMENT NO. 5581

At the request of Mr. DODD, the names of the Senator from Massachusetts (Mr. KERRY), the Senator from Wisconsin (Mr. FEINGOLD), the Senator from Vermont (Mr. LEAHY), the Senator from Wyoming (Mr. ENZI), the Senator from North Dakota (Mr. DORGAN), the Senator from Iowa (Mr. HARKIN) and the Senator from Arkansas (Mrs. LINCOLN) were added as cosponsors of amendment No. 5581 intended to be proposed to S. 3001, an original bill to authorize appropriations for fiscal year 2009 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes.

## STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mrs. FEINSTEIN (for herself and Mrs. BOXER):

S. 3493. A bill to require rail carriers to develop positive rail control system plans for improving railroad safety and to increase the civil penalties for railroad safety violations; to the Committee on Commerce, Science, and Transportation.

Mrs. FEINSTEIN. Mr. President, I make these remarks on behalf of my friend and colleague, Senator BOXER. She and I are cosponsoring legislation, which I will send to the desk at the end of my remarks.

On Friday, at 4:30 p.m., a Union Pacific freight train and a Metrolink commuter train, loaded with 225 commuters, leaving Los Angeles and traveling north through the San Fernando Valley, in the Chatsworth area, collided on a single track. The collision took place at about 40 miles an hour for each train. The engine of the Metrolink train was rammed two-thirds through the first car of the Metrolink train. Here it is. Here is the Union Pacific engine and this mess is the Metrolink engine and it rammed two-thirds through the first car. Thus far, 26 people are dead. Some were dismembered by the crash, some bodies had to be removed in a dismembered state from the train. There are 138 people in the hospital, 40 of them in critical condition, and more deaths could well take place.

This accident happened because of a resistance in the railroad community in America to utilizing existing technology to produce a fail-safe control of trains to avoid colliding with each other and to avoid one train from crashing into the rear of another. Both of these have happened in the past. Yet today there is no requirement for a safe control of track and train.

The House has passed a bill reauthorizing the Federal Railroad Administration. The Senate has passed a bill reauthorizing the Federal Railroad Administration. They both have provisions, although they are different, for safe train control in these bills. But nothing has happened. The bills have not been conferenced. This must stop.

Let me point out for a minute how positive train control works. Every train's position is tracked through global positioning, which is new technology that can monitor its location and speed. These systems constantly watch for excessive speed, improperly aligned switches, whether trains are on the wrong track, unauthorized train movements, and whether trains have missed signals to slow or stop. Each train also has equipment on board that can take over from the engineer if the train doesn't comply with the safety signals. The system will override the engineer and automatically put on the brakes. These systems exist and are in use today. They are in place in the Chicago-Detroit corridor and in the Northeast corridor. But the railroad industry resists them.

I believe rail in America has a very real future. California believes it has a very real future. As a matter of fact, in 5 weeks, California has on the ballot a $10 billion bond issue to create a high-speed rail spine down the center of California that runs from Sacramento all the way down to Los Angeles. Now, people aren't going to ride these trains unless they know they are safe, and we have an obligation, I believe, to provide that safety.

I am sorry to have to say this, but southern California has the most high-risk track in America. The majority of Metrolink's 388 miles of track, which crosses six counties, believe it or not, is shared with freight trains. This is untenable.

Let me ask a question: How can you put commuter trains, passenger trains, on the same track as freight trains going in opposite directions with nothing more than a couple of signals that can be missed, and have been missed, to avert disaster?

Again, over the years, the railroad resisted, saying these systems are too expensive. Well, how expensive is the loss of human life? The cost of any system doesn't come close to the cost of the lives that were lost this past Friday and that will likely be lost in the future.

To date, positive train control has been put to use only in limited areas, including, as I said, parts of the Northeast and Chicago and Detroit. Nine railroads in at least 16 States have these positive control projects, but California is not one of them. Why, I ask. It is critical, particularly when—given the element of human error, which we may well see in this instance—it may well have been a cell phone that was in use at the time of the accident by the engineer.

Let me tell you what sort of hours this engineer works. He works 5 days a week, and it is an 11-hour day. It is a split shift of 15 hours. Let me explain. He is due at work at 6 in the morning. He works until late morning, and then he has 4 hours off but returns to work from 3 p.m. to 9 p.m. That is an 11-hour day in an engine on high alert in major populated areas. He performs a critical function, and he does it on an 11-hour workday on a split shift. I think that is untenable.

The NTSB, the National Transportation Safety Board, has pushed again and again for positive train control systems, particularly after a deadly crash in my own State in Orange County in 2002. Three people died and two hundred sixty were injured. In the Orange County crash, the National Transportation Safety Board concluded that a Burlington Northern engineer and a conductor were talking to each other. They failed to see a yellow warning light telling them to slow down. I think that same thing has happened again. Their freight train slammed into a Metrolink commuter train that had stopped on the same track.

Now, we know that positive, or safe, train control would prevent 40 to 60 accidents a year, 7 fatalities, and 55 injuries a year. So why hasn't it been put in place? I actually believe it is negligence, and I will even go as far to say I believe it is criminal negligence not to do so.

The report also concluded that positive train control could have prevented a fatal collision in Graniteville, SC, in 2005. In this accident, a rail employee failed to properly align a track switch. As a result, several cars derailed, deadly chlorine gases escaped, and nine people died.

Cost is used as the reason not to do this, but I ask: How can we afford not to do it, whatever the cost? How many accidents does it take? How many deaths does it take? How many injuries does it take? Experts estimate that the cost is about $2.3 billion to install safe, technological train controls on 100,000 miles of track around the United States—high priority track.

Today, my colleague, Senator BOXER, and I are introducing legislation which takes the strongest parts of the House and Senate bills and beefs them up. This legislation would require positive safe train controls for major freight and passenger lines. By 2012, areas declared as high risk by the Department of Transportation must run with positive train control systems. Railroads would be required to develop plans to implement these controls within 1 year of enactment of the legislation. These plans must be submitted to the Secretary of Transportation also within 1 year of enactment. It sets a deadline of December 31, 2014, for safe rail control to be in place on all major freight and passenger lines in America. It would be mandatory, and it would require penalties for noncompliance, with fines of up to $100,000 per violation.

Passenger rail will not succeed in this country unless public safety is guaranteed. Again, on Friday, these trains hit at 40 miles per hour. What happens when trains pile into each other at 120 miles per hour?

I have asked the majority leader to include this in the continuing resolution. I don't know whether he will—I think it is a remote possibility—but I do believe we need to get this moving right now.

Once again, look at this. When we know there is global positioning that can be in place to shut down the freight train and the passenger train before they run into each other and we do nothing about it, then I believe this body is also culpable and negligent.

Mr. President, if I might, I send this legislation to the desk with a plea that it be enacted right away, with a plea that we get the planning moving, with a plea that we get 100,000 miles of high-priority track equipped with global positioning so this never again can happen in a high-priority passenger-freight train area where the trains are traveling on the same track. If we don't do it, it is going to happen again.

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By Mr. VOINOVICH (for himself, Mr. BROWN, Mr. HARKIN, MR. COCHRAN, Mr. VITTER, Mr. OBAMA, Mr. BAYH, and Mr. LUGAR):

S. 3498. A bill to amend title 46, United States Code, to extend the exemption from the fire-retardant materials construction requirement for vessels operating within the Boundary Line; to the Committee on Commerce, Science, and Transportation.

Mr. VOINOVICH. 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. 3498

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. EXTENSION OF EXEMPTION.**

Section 3503(a) of title 46, United States Code, is amended by striking ''2008'' and inserting ''2018''.

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By Mr. FEINGOLD (for himself and Mrs. FEINSTEIN):

S. 3501. A bill to ensure that Congress is notified when the Department of Justice determines that the Executive Branch is not bound by a statute; to the Committee on the Judiciary.

Mr. FEINGOLD. Mr. President, today I am introducing, along with the senior Senator from California, Senator FEINSTEIN, the OLC Reporting Act of 2008. In short, the bill would require the Attorney General to report to Congress when the Department of Justice issues a legal opinion concluding that the executive branch is not bound by a statute. Along with the Executive Order Integrity Act of 2008, which I introduced in July with the junior Senator from Rhode Island, Senator WHITEHOUSE, this bill takes an important step toward curbing the executive branch's reliance on secret law.

The principle behind this bill is straightforward. It is a basic tenet of democratic government that the people have a right to know the law. The very notion of ''secret law'' has been described in court opinions and law treatises as ''repugnant'' and ''an abomination.'' That's why the laws passed by Congress have historically been matters of public record.

But the law that applies in this country includes more than just statutes. It includes regulations, the controlling legal interpretations of the executive branch and the courts, and certain Presidential directives. As we learned at a hearing of the Judiciary Committee's Constitution Subcommittee that I chaired in April, this body of executive and judicial law is increasingly being kept secret from the public, and too often from Congress as well. Perhaps the most troubling recent example of secret law is the elaborate legal regime constructed by DOJ's Office of Legal Counsel to justify controversial administration policies that operate outside the framework of statutory law.

An opinion issued by OLC is not just a piece of legal advice, such as the advice individuals or corporations might solicit from their lawyers. An OLC opinion binds the entire executive branch, just like the ruling of a court. If a court were to reach a different interpretation than OLC, the court's interpretation would prevail—but many OLC opinions address matters that courts never have the chance to decide. On those matters, OLC essentially steps into the role of the courts as the final interpreter of the law. In the words of Jack Goldsmith, former head of OLC under President Bush: ''These executive branch precedents are 'law' for the executive branch.''

OLC opinions are ''law'' in another sense as well. Attorney General Mukasey has stated that DOJ will not prosecute a government actor for criminal conduct if he or she relied on an OLC opinion. Thus, even if a court overturns OLC's interpretation, the opinion may grant retroactive immunity for past violations of the law—effectively amending the law that existed at the time of the criminal act.

The Bush administration has relied heavily on secret OLC opinions in a broad range of matters involving core constitutional rights and civil liberties. The administration's policies on interrogation of detainees were justified by OLC opinions that were withheld from Congress and the public for several years. The President's warrantless wiretapping program was justified by OLC opinions that, to this day, have been seen only by a select few Members of Congress. And, when it was finally made public this year, the March 2003 memorandum on torture written by John Yoo was filled with references to other OLC memos that Congress and the public have never seen—on subjects ranging from the Government's ability to detain U.S. citizens without congressional authorization to the Government's ability to operate outside the Fourth Amendment in domestic military operations.

The few opinions whose content has been made public share a notable characteristic: the conclusion that various laws enacted by Congress do not apply to the conduct of the executive branch. The 2003 Yoo torture memo took the alarming position that the executive branch was not bound by the criminal statute prohibiting torture when interrogating detainees. Likewise, according to congressional testimony of former OLC head Steve Bradbury, the President's warrantless wiretapping program was supported by OLC opinions claiming that the President's wiretapping authority was not limited by the constraints of the Foreign Intelligence Surveillance Act. The titles of other OLC opinions referenced in the Yoo memo strongly suggest that other statutory constraints have been disposed of in a similar manner.

The secrecy of these opinions cannot be justified or explained away by a wholesale claim of privilege. To be sure, there are sound arguments for shielding from public disclosure deliberations among OLC lawyers, as well as final OLC opinions that are not adopted as the basis for an executive branch policy. But once a final OLC opinion is issued and adopted by an executive

branch agency or official, that opinion is no longer mere legal advice or a deliberative document—it is effectively the law. Indeed, in his testimony before the Constitution Subcommittee in April, the Deputy Assistant Attorney General for OLC acknowledged that the confidentiality interest in OLC opinions is ''completely different'' for opinions that have been implemented as policy, and that such opinions should be made public ''as fast as possible.'' The Supreme Court expressed the same sentiment in legal terms, holding that ''opinions and interpretations which embody [an] agency's effective law and policy'' are not privileged, precisely because agencies otherwise would be operating under ''secret law.''

There is an even stronger interest in disclosure when an OLC opinion concludes that the executive branch is not bound by a Federal statute. In such cases, the executive branch is no longer operating according to the rules that are on the books, and there is truly a separate—and sometimes conflicting—regime of secret law. Moreover, Congress has an obvious institutional interest in knowing when DOJ opines that the executive branch is not bound by a statute, and the reasons for that opinion. If DOJ concludes that a statute is unconstitutional, Congress may wish to challenge this position, or it may decide to simply rewrite the law to avoid the perceived constitutional problem. Similarly, if DOJ concludes that Congress did not intend for a statute to apply to the executive branch, then Congress should have the opportunity to assess this conclusion and revise the law if necessary to make its intent clear. None of this can happen when Congress is denied access to the opinion.

Recognizing Congress's strong interest in knowing when DOJ takes issue with its enactments, current law requires the Attorney General to report to Congress when DOJ decides that it will not enforce or defend a statute because the statute is unconstitutional. This reporting provision, however, does not reach situations in which OLC stops short of declaring a statute unconstitutional, and instead construes the statute not to apply to the executive branch in order to avoid a finding of unconstitutionality. At the hearing I chaired on secret law, Dawn Johnsen, who served as the head of OLC for 2 years under President Clinton, testified that the law should be amended to require reporting to Congress in these situations as well. Bradford Berenson, former counsel to President Bush from 2001–2003, agreed with this modest proposal.

The bill that Senator FEINSTEIN and I are introducing today grew out of this bipartisan agreement. It was drafted with the substantial assistance and input of Johnsen, Berenson, and an impressive group of some of the finest attorneys to serve in OLC in past years, many of whom are now constitutional scholars. The aim was to craft a targeted bill—one that would allow Congress to be sufficiently informed when OLC purports to release the executive branch from the strictures of a statute, without encroaching on the institutional interests, prerogatives, and privileges of OLC. We took great pains to ensure that an appropriate balance of power was maintained between the legislative and executive branches. The result is an approach that is narrowly tailored and eminently reasonable.

The bill adds a new disclosure requirement to 28 U.S.C. 530D, the statutory provision that requires the Attorney General to report to Congress if DOJ decides not to enforce or defend a statute on the ground that it is unconstitutional. Under the bill, the Attorney General must also report to Congress under four circumstances. These circumstances represent the means by which OLC is most likely to exempt the executive branch from the reach of a statute, in those areas where Congress has the greatest interest in knowing about it.

First, a report is required if DOJ issues an opinion that concludes that a Federal statute is unconstitutional. Current law requires reporting only when DOJ decides not to defend or enforce a statute, which does not necessarily reach cases in which an agency policy conflicts with a statute but DOJ is not presented with the opportunity for an enforcement action.

Second, a report is required if DOJ relies on the so-called ''doctrine of constitutional avoidance'' and cites Article II or the separation of powers—in other words, if DOJ determines that applying a statute to executive branch officials would raise constitutional problems. Regardless of the validity of this determination, the effect is to exempt executive branch officials from the statute's reach—a result that Congress should know about.

Third, a report is required if DOJ relies on a ''legal presumption'' against applying a statute to the executive branch. For example, the Yoo torture memo relied on the legal presumption that laws of general applicability, such as those prohibiting torture, do not apply to the conduct of the military during wartime. The criterion of a ''legal presumption'' serves to keep the reporting requirement narrowly tailored: it captures situations in which the executive branch is exempted from a statute categorically, without requiring reporting in more run-of-the-mill cases where a particular executive action simply does not fall within the statute.

Fourth, a report is required if DOJ determines that a statute has been superseded by a later enactment, when the later enactment does expressly say so. This provision would address situations like OLC's conclusion that the Authorization for Use of Military Force superseded the constraints of the Foreign Intelligence Surveillance Act. In such cases, reporting to Congress gives Congress the opportunity to clarify its intent.

These reporting requirements are accompanied by several provisions to ensure scrupulous respect for executive privileges and prerogatives. The Attorney General would not be required to disclose the OLC opinion itself, as long as the report to Congress includes the information already required under 28 U.S.C. 530D whenever DOJ decides not to enforce or defend a statute—namely, a complete and detailed statement of the relevant issues and background. Furthermore, the bill leaves intact section 530D's provision allowing the Attorney General to exclude privileged information from the statement; the only information that could not be excluded is the date of the opinion, the statute at issue, and which of the four reporting categories the opinion falls within. No report would be required if officials expressly declined to adopt or act on the opinion, thus protecting from disclosure opinions that are truly advisory in nature.

The bill also protects the security of classified information. Information that could harm the national security if disclosed publicly could be provided to Congress in a classified annex. Classified information involving intelligence activities would be reported only to the Intelligence and Judiciary Committees—or, under appropriate circumstances, a more narrow ''Gang of Twelve,'' to parallel the more limited disclosure provisions of the National Security Act.

The bill's targeted focus and careful preservation of executive prerogatives has earned it the support of former officials from both the Clinton and Bush Administrations. Former head of OLC, Dawn Johnsen, and former counsel to President Bush, Bradford Berenson, have written a joint letter endorsing the bill. In their words: ''[W]e believe [the bill] strikes a sensible and constitutionally sound accommodation between the executive branch's need to have candid legal advice, to protect national security information, and to avoid being overburdened by overly intrusive reporting requirements and the legislative branch's need to know the manner in which its laws are interpreted.'' They write that enacting this bill ''would have the effect of enhancing democratic accountability and the rule of law.'' I ask unanimous consent to place this letter in the record along with my statement.

Of course, the bill does not represent a perfect or complete solution to the problem of secret law. For example, it would not reach the now-infamous OLC conclusion that the infliction of pain does not constitute ''torture'' unless it approaches the level associated with ''death, organ failure, or serious impairment of body functions''—an interpretation that effectively exempted the executive branch from the full scope of the anti-torture statute. Moreover, under the provisions of the bill allowing the Attorney General to withhold privileged information, Congress may

well be forced to operate under a significant informational handicap. Nonetheless, the bill represents an important and necessary step toward curbing secret law and restoring the proper balance of power between the executive and legislative branches.

When OLC concludes that a statute passed by Congress does not bind the executive branch, Congress has a right to know that the executive branch is not operating under that statute, and to be apprised of the law under which the executive branch is operating. The bill I am introducing with Senator FEINSTEIN codifies that right. I urge all of my colleagues in the Senate to support this common-sense measure.

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. 3501

*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 ''OLC Reporting Act of 2008''.

**SEC. 2. REPORTING.**

Section 530D of title 28, United States Code, is amended—

(1) in subsection (a)—

(A) in paragraph (1)—

(i) in subparagraph (B), by striking ''or'' at the end;

(ii) by redesignating subparagraph (C) as subparagraph (D); and

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

''(C) except as provided in paragraph (3), issues an authoritative legal interpretation (including an interpretation under section 511, 512, or 513 by the Attorney General or by an officer, employee, or agency of the Department of Justice pursuant to a delegation of authority under section 510) of any provision of any Federal statute—

''(i) that concludes that the provision is unconstitutional or would be unconstitutional in a particular application;

''(ii) that relies for the conclusion of the authoritative legal interpretation, in whole or in the alternative, on a determination that an interpretation of the provision other than the authoritative legal interpretation would raise constitutional concerns under article II of the Constitution of the United States or separation of powers principles;

''(iii) that relies for the conclusion of the authoritative legal interpretation, in whole or in the alternative, on a legal presumption against applying the provision, whether during a war or otherwise, to—

''(I) any department or agency established in the executive branch of the Federal Government, including the Executive Office of the President and the military departments (as defined in section 101(8) of title 10); or

''(II) any officer, employee, or member of any department or agency established in the executive branch of the Federal Government, including the President and any member of the Armed Forces; or

''(iv) that concludes the provision has been superseded or deprived of effect in whole or in part by a subsequently enacted statute where there is no express statutory language stating an intent to supersede the prior provision or deprive it of effect; or'';

(B) in paragraph (2), by striking ''For the purposes'' and all that follows through ''if the report'' and inserting ''Except as provided in paragraph (4), a report shall be considered to be submitted to the Congress for the purposes of paragraph (1) if the report''; and

(C) by adding at the end the following:

''(3) DIRECTION REGARDING INTERPRETATION.—The submission of a report to Congress based on the issuance of an authoritative legal interpretation described in paragraph (1)(C) shall be discretionary on the part of the Attorney General or an officer described in subsection (e) if—

''(A) the President or other responsible officer of a department or agency established in the executive branch of the Federal Government, including the Executive Office of the President and the military departments (as defined in section 101(8) of title 10), expressly directs that no action be taken or withheld or policy implemented or stayed on the basis of the authoritative legal interpretation; and

''(B) the directive described in subparagraph (A) is in effect.

''(4) CLASSIFIED INFORMATION.—

''(A) SUBMISSION OF REPORT CONTAINING CLASSIFIED INFORMATION REGARDING INTELLIGENCE ACTIVITIES.—Except as provided in subparagraph (B), if the Attorney General submits a report relating to an instance described in paragraph (1) that includes a classified annex containing information relating to intelligence activities, the report shall be considered to be submitted to the Congress for the purposes of paragraph (1) if—

''(i) the unclassified portion of the report is submitted to each officer specified in paragraph (2); and

''(ii) the classified annex is submitted to the Select Committee on Intelligence and the Committee on the Judiciary of the Senate and the Permanent Select Committee on Intelligence and the Committee on the Judiciary of the House of Representatives.

''(B) SUBMISSION OF REPORT CONTAINING CERTAIN CLASSIFIED INFORMATION ABOUT COVERT ACTIONS.—

''(i) IN GENERAL.—In a circumstance described in clause (ii), a report described in that clause shall be considered to be submitted to the Congress for the purposes of paragraph (1) if—

''(I) the unclassified portion of the report is submitted to each officer specified in paragraph (2); and

''(II) the classified annex is submitted to—

''(aa) the chairman and ranking minority member of the Select Committee on Intelligence of the Senate;

''(bb) the chairman and ranking minority member of the Committee on the Judiciary of the Senate;

''(cc) the chairman and ranking minority member of the Permanent Select Committee on Intelligence of the House of Representatives;

''(dd) the chairman and ranking minority member of the Committee on the Judiciary of the House of Representatives;

''(ee) the Speaker and minority leader of the House of Representatives; and

''(ff) the majority leader and minority leader of the Senate.

''(ii) CIRCUMSTANCES.—A circumstance described in this clause is a circumstance in which—

''(I) the Attorney General submits a report relating to an instance described in paragraph (1) that includes a classified annex containing information relating to a Presidential finding described in section 503(a) of the National Security Act of 1947 (50 U.S.C. 413b(a)); and

''(II) the President determines that it is essential to limit access to the information described in subclause (I) to meet extraordinary circumstances affecting vital interests of the United States.'';

(2) in subsection (b)—

(A) in paragraph (2), by striking ''and'' at the end;

(B) by redesignating paragraph (3) as paragraph (4);

(C) by inserting after paragraph (2) the following:

''(3) under subsection (a)(1)(C)—

''(A) not later than 30 days after the date on which the Attorney General, the Office of Legal Counsel, or any other officer of the Department of Justice issues the authoritative legal interpretation of the Federal statutory provision; or

''(B) if the President or other responsible officer of a department or agency established in the executive branch of the Federal Government, including the Executive Office of the President and the military departments (as defined in section 101(8) of title 10), issues a directive described in subsection (a)(3) and the directive is subsequently rescinded, not later than 30 days after the date on which the President or other responsible officer rescinds that directive; and''; and

(D) in paragraph (4), as so redesignated, by striking ''subsection (a)(1)(C)'' and inserting ''subsection (a)(1)(D)'';

(3) in subsection (c)—

(A) in paragraph (1), by striking ''or of each approval described in subsection (a)(1)(C)'' and inserting ''of the issuance of the authoritative legal interpretation described in subsection (a)(1)(C), or of each approval described in subsection (a)(1)(D)'';

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

(C) by inserting after paragraph (1) the following:

''(2) with respect to a report required under subparagraph (A), (B), or (C) of subsection (a)(1), specify the Federal statute, rule, regulation, program, policy, or other law at issue, and the paragraph and clause of subsection (a)(1) that describes the action of the Attorney General or other officer of the Department of Justice;'';

(D) in paragraph (3), as so redesignated—

(i) by striking ''reasons for the policy or determination'' and inserting ''reasons for the policy, authoritative legal interpretation, or determination'';

(ii) by inserting ''issuing such authoritative legal interpretation,'' after ''or implementing such policy,'';

(iii) by striking ''except that'' and inserting ''provided that'';

(iv) by redesignating subparagraphs (A) and (B) as subparagraphs (B) and (C), respectively;

(v) by inserting before subparagraph (B), as so redesignated, the following:

''(A) any classified information shall be provided in a classified annex, which shall be handled in accordance with the security procedures established under section 501(d) of the National Security Act of 1947 (50 U.S.C. 413(d));'';

(vi) in subparagraph (B), as so redesignated—

(I) by inserting ''except for information described in paragraph (1) or (2),'' before ''such details may be omitted'';

(II) by striking ''national-security- or classified information, of any''; and

(III) by striking ''or other law'' and inserting ''or other statute'';

(vii) in subparagraph (C), as so redesignated—

(I) by redesignating clauses (i) and (ii) as clauses (ii) and (iii), respectively;

(II) by inserting before clause (ii), as so redesignated, the following:

''(i) in the case of an authoritative legal interpretation described in subsection (a)(1)(C), if a copy of the Office of Legal Counsel or

other legal opinion setting forth the authoritative legal interpretation is provided;'';

(III) in clause (ii), as so redesignated, by striking ''subsection (a)(1)(C)(i)'' and inserting ''subsection (a)(1)(D)(i)''; and

(IV) in clause (iii), as so redesignated, by striking ''subsection (a)(1)(C)(ii)'' and inserting ''subsection (a)(1)(D)(ii)''; and

(E) in paragraph (4), as so redesignated, by striking ''subsection (a)(1)(C)(i)'' and inserting ''subsection (a)(1)(D)(i)''; and

(4) in subsection (e)—

(A) by striking ''(but only with respect to the promulgation of any unclassified Executive order or similar memorandum or order)''; and

(B) by inserting ''issues an authoritative interpretation described in subsection (a)(1)(C),'' after ''policy described in subsection (a)(1)(A),''.

SEPTEMBER 15, 2008.

Hon. PATRICK LEAHY,
*Chairman, Senate Committee on the Judiciary, U.S. Senate, Washington DC.*

Hon. ARLEN SPECTER,
*U.S. Senate,*
*Washington DC.*

DEAR CHAIRMAN LEAHY AND SENATOR SPECTER: We write to convey our strong support for ''The OLC Reporting Act of 2008,'' to be introduced by Senator Feingold and Senator Feinstein. We respectfully urge the committee to give the bill prompt and serious consideration, because we believe that the addition of the reporting requirement it would create would have the effect of enhancing democratic accountability and the rule of law.

We both had the privilege to testify before Senators Feingold and Brownback, and the Subcommittee on the Constitution of the Senate Committee on the Judiciary, on April 30, 2008 in a hearing that examined ''Secret Law and the Threat to Democratic and Accountable Government.'' We served in different administrations, Brad Berenson as Associate Counsel to President George W. Bush and Dawn Johnsen as Acting Assistant Attorney General for the Office of Legal Counsel (OLC) under President Clinton. During our testimony, we found ourselves in substantial agreement about the desirability for new legislation that would require reporting to Congress regarding a limited category of OLC legal opinions.

As a general matter, we share a deep concern about safeguarding the legitimate need for confidentiality in the legal advice OLC provides to the President and others in the executive branch, by power delegated by the Attorney General. For example, in some instances national security information must be protected. In other instances, such as where OLC advises that a proposed action would be illegal, and that advice is accepted, the prospect of immediate and routine disclosure could deter executive branch officials from seeking advice in the first place.

We agree, however, that Congress has a legitimate legislative interest in receiving broader notice than current law provides with respect to certain categories of OLC opinions, which can generally be described as those in which OLC relies on constitutionally based interpretive doctrines to interpret a law in a way that might come as a surprise to Congress. These include the doctrine of ''constitutional avoidance,'' as well as implied repeals or modifications and certain presumptions against applying statutes to the executive branch officials. In our view, OLC opinions that place substantial reliance on such doctrines present the greatest potential for overreaching by the executive branch and thus the greatest need for notification to Congress. If Congress does not know about these interpretations, Congress is unable to consider the possibility of legislative change or clarification.

For this reason, after the hearing we worked closely with Senate staff as well as with a group of other former executive branch officials and Office of Legal Counsel lawyers to help draft ''The OLC Reporting Act of 2008.'' The resulting bill text was the product of careful consideration and negotiation. The bill mandates reporting in a carefully defined category of cases and includes appropriate provisions to protect national security and privileged information. All in all, we believe it strikes a sensible and constitutionally sound balance between the executive branch's need to have access to candid legal advice, to protect national security information, and to avoid being overburdened by unduly intrusive reporting requirements and the legislative branch's need to know the manner in which its laws are interpreted. We both endorse the bill as introduced and urge its prompt enactment.

Sincerely,

BRAD BERENSON,
*Sidley Austin.*
DAWN JOHNSEN,
*Indiana University School of Law.*

## SUBMITTED RESOLUTIONS

### SENATE RESOLUTION 662—RAISING THE AWARENESS OF THE NEED FOR CRIME PREVENTION IN COMMUNITIES ACROSS THE COUNTRY AND DESIGNATING THE WEEK OF OCTOBER 2, 2008, THROUGH OCTOBER 4, 2008, AS ''CELEBRATE SAFE COMMUNITIES'' WEEK

Mr. BIDEN (for himself, Mrs. CLINTON, Mr. KERRY, Ms. MIKULSKI, and Ms. STABENOW) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 662

Whereas communities across the country face localized increases in violence and other crime;

Whereas local law enforcement and community partnerships are an effective tool for preventing crime and addressing the fear of crime;

Whereas the National Sheriffs' Association (NSA) and the National Crime Prevention Council (NCPC) are leading national resources that provide community safety and crime prevention tools tested and valued by local law enforcement agencies and communities nationwide;

Whereas the NSA and the NCPC have joined together to create the ''Celebrate Safe Communities'' initiative in partnership with the Bureau of Justice Assistance, Office of Justice Programs, Department of Justice;

Whereas Celebrate Safe Communities will be launched the 1st week of October 2008 to help kick off recognition of October as Crime Prevention Month;

Whereas Celebrate Safe Communities is designed to help local communities highlight the importance of residents and law enforcement working together to keep communities safe places to live, learn, work, and play;

Whereas Celebrate Safe Communities will enhance the public awareness of vital crime prevention and safety messages and motivate Americans of all ages to learn what they can do to stay safe from crime;

Whereas Celebrate Safe Communities will help promote year-round support for locally based and law enforcement-led community safety initiatives that help keep families, neighborhoods, schools, and businesses safe from crime; and

Whereas the week of October 2, 2008, through October 4, 2008, is an appropriate week to designate as ''Celebrate Safe Communities'' week: Now, therefore, be it

*Resolved*, That the Senate—

(1) designates the week of October 2, 2008, through October 4, 2008, as ''Celebrate Safe Communities'' week;

(2) commends the efforts of the thousands of local law enforcement agencies and their countless community partners who are educating and engaging residents of all ages in the fight against crime;

(3) asks communities across the country to consider how the Celebrate Safe Communities initiative can help them highlight local successes in the fight against crime; and

(4) encourages the National Sheriffs' Association and the National Crime Prevention Council to continue to promote, during Celebrate Safe Communities week and yearround, individual and collective action in collaboration with law enforcement and other supporting local agencies to reduce crime and build safer communities throughout the United States.

### SENATE CONCURRENT RESOLUTION 99—HONORING THE UNIVERSITY OF NEBRASKA AT OMAHA FOR ITS 100 YEARS OF COMMITMENT TO HIGHER EDUCATION.

Mr. HAGEL submitted the following concurrent resolution; which was referred to the Committee on Health, Education, Labor, and Pensions:

S. CON. RES. 99

Whereas local leaders in the Omaha area formed a corporation known as the University of Omaha on October 8, 1908, for the promotion of sound learning and education;

Whereas, on September 14, 1909, the first 26 University of Omaha students gathered in Redick Hall, located west of 24th and Pratt Streets in the city of Omaha;

Whereas, during the first 10 years of existence, the key division of the University of Omaha was Liberal Arts College, designed to produce a well-rounded and informed student;

Whereas, in 1910, the University of Nebraska announced it would accept all University of Omaha coursework as equivalent to its own, a milestone in terms of recognition for the new institution and acknowledgement of its substantial and respected curriculum;

Whereas, in December 1916, the University of Omaha students had a farewell party for Redick Hall and moved into their new building, a 3-story, 30-classroom building named Joslyn Hall;

Whereas, in 1929, the University of Omaha board of trustees and the people of Omaha voted to create the new Municipal University of Omaha to replace the old University of Omaha on May 30, 1930;

Whereas, in 1936, the Municipal University of Omaha acquired 20 acres of land north of Elmwood Park and south of West Dodge Street, which would become the site of the present-day campus;

Whereas the University dedicated its beautiful Georgian-style administration building in November 1938, capable of accommodating a student body of 1,000;

Whereas the increased enrollment of World War II veterans in 1945 due to the Montgomery GI Bill led to the completion of several new buildings, including a field house,

library, student center, and engineering building;

Whereas, in 1950, the College of Education was separated from the College of Arts and Sciences, and within 3 years 1/3 of all teachers in Omaha public schools held degrees from the Municipal University;

Whereas the College of Business Administration was founded in 1952, and the business community responded by creating internship programs for accounting, insurance, real estate, and retailing at major firms and for students interested in the field of television at station KMTV;

Whereas 12,000 members of the military, including 15 who rose to the rank of general, were able to receive a Bachelor of General Education degree through the College of Adult Education ''Bootstrap'' program;

Whereas the University received a Reserve Officers' Training Corps (ROTC) unit in July 1951;

Whereas Municipal University became a leader in radio-television journalism by founding its own radio station in 1951, and in 1952 became the first institution in the Midwest to offer courses by television;

Whereas Municipal University became part of the University of Nebraska system in July 1968, and was renamed the University of Nebraska at Omaha, its present-day name;

Whereas, in 1977, the North Central Association of Colleges and Secondary Schools gave the University of Nebraska at Omaha the highest rating possible;

Whereas, in an effort to gain a more suitable location for conferences and an off-campus class site, the University opened the Peter Kiewit Conference Center in 1980;

Whereas the University has established innovative programs that enrich the community through service learning, support of the arts, outreach programs for business, education, and government, and creation of dual-enrollment programs for Nebraska high school students;

Whereas the University has 90,000 graduates, with nearly half of those still residing, raising families, and building careers in the Omaha metropolitan area; and

Whereas the year 2008 is the 100th anniversary of the founding of the University of Nebraska at Omaha, and the activities to commemorate its founding will begin on October 8, 2008: Now, therefore, be it

*Resolved by the Senate (the House of Representatives concurring),* That Congress congratulates the University of Nebraska at Omaha on its 100 years of outstanding service to the city of Omaha, the State of Nebraska, the United States, and the world in fulfilling its mission of providing sound learning and education.

## AMENDMENTS SUBMITTED AND PROPOSED

SA 5596. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill S. 3001, to authorize appropriations for fiscal year 2009 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table.

SA 5597. Mr. NELSON, of Florida submitted an amendment intended to be proposed to amendment SA 5272 submitted by Mr. NELSON of Florida and intended to be proposed to the bill S. 3001, supra; which was ordered to lie on the table.

SA 5598. Mr. JOHNSON submitted an amendment intended to be proposed to amendment SA 5519 submitted by Mr. JOHNSON (for himself, Mr . THUNE, and Ms. STABENOW) and intended to be proposed to the bill S. 3001, supra; which was ordered to lie on the table.

SA 5599. Mr. BAYH submitted an amendment intended to be proposed to amendment SA 5437 submitted by Mr. BAYH and intended to be proposed to the bill S. 3001, supra; which was ordered to lie on the table.

SA 5600. Mr. CARPER submitted an amendment intended to be proposed by him to the bill S. 3001, supra; which was ordered to lie on the table.

SA 5601. Mr. BIDEN (for himself and Mr. LUGAR) submitted an amendment intended to be proposed to amendment SA 5441 submitted by Mr. REID (for Mr. BIDEN (for himself and Mr. LUGAR)) and intended to be proposed to the bill S. 3001, supra; which was ordered to lie on the table.

SA 5602. Mr. BIDEN (for himself and Mr. LUGAR) submitted an amendment intended to be proposed to amendment SA 5566 submitted by Mr. BIDEN (for himself and Mr. LUGAR) and intended to be proposed to the bill S. 3001, supra; which was ordered to lie on the table.

SA 5603. Mr. COBURN submitted an amendment intended to be proposed by him to the bill S. 3001, supra; which was ordered to lie on the table.

SA 5604. Mr. DURBIN (for himself and Mr. BROWNBACK) submitted an amendment intended to be proposed by him to the bill S. 3001, supra; which was ordered to lie on the table.

SA 5605. Mr. DURBIN (for himself and Mr. BROWNBACK) submitted an amendment intended to be proposed to amendment SA 5511 submitted by Mr. DURBIN (for himself and Mr. BROWNBACK) and intended to be proposed to the bill S. 3001, supra; which was ordered to lie on the table.

SA 5606. Mr. REID submitted an amendment intended to be proposed to amendment SA 5355 submitted by Mr. GRAHAM (for himself and Mr. LIEBERMAN) and intended to be proposed to the bill S. 3001, supra; which was ordered to lie on the table.

SA 5607. Mr. NELSON, of Florida submitted an amendment intended to be proposed to amendment SA 5536 submitted by Mr. SESSIONS (for himself , Mr. NELSON of Nebraska, Mr. LIEBERMAN, Mr. KYL, Mr. INHOFE, Mr. GRAHAM, Mr. VITTER, Mr. BROWNBACK, and Mr. CHAMBLISS) and intended to be proposed to the bill S. 3001, supra; which was ordered to lie on the table.

SA 5608. Mr. CORNYN submitted an amendment intended to be proposed by him to the bill S. 3001, supra; which was ordered to lie on the table.

SA 5609. Ms. KLOBUCHAR submitted an amendment intended to be proposed by her to the bill S. 3001, supra; which was ordered to lie on the table.

SA 5610. Ms. COLLINS submitted an amendment intended to be proposed by her to the bill S. 3001, supra; which was ordered to lie on the table.

SA 5611. Ms. COLLINS (for herself and Mr. LIEBERMAN) submitted an amendment intended to be proposed by her to the bill S. 3001, supra; which was ordered to lie on the table.

SA 5612. Mr. KERRY submitted an amendment intended to be proposed to amendment SA 5593 submitted by Mr. KERRY (for himself and Mr. SMITH) and intended to be proposed to the bill S. 3001, supra; which was ordered to lie on the table.

SA 5613. Mr. LEVIN submitted an amendment intended to be proposed by him to the bill S. 3001, supra; which was ordered to lie on the table.

SA 5614. Mr. LEVIN (for Mr. AKAKA) proposed an amendment to the bill S. 3023, to amend title 38, United States Code, to improve and enhance compensation and pension, housing, labor and education, and insurance benefits for veterans, and for other purposes.

SA 5615. Mr. SANDERS submitted an amendment intended to be proposed by him to the bill S. 3001, to authorize appropriations for fiscal year 2009 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table.

SA 5616. Mr. KERRY (for himself and Ms. SNOWE) submitted an amendment intended to be proposed by him to the bill S. 3001, supra; which was ordered to lie on the table.

SA 5617. Mr. KERRY (for himself and Ms. SNOWE) submitted an amendment intended to be proposed by him to the bill S. 3001, supra; which was ordered to lie on the table.

## TEXT OF AMENDMENTS

**SA 5596.** Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill S. 3001, to authorize appropriations for fiscal year 2009 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

On page 452, between lines 9 and 10, insert the following:

**SEC. 2806. EXPANSION OF AUTHORITY FOR PILOT PROJECTS FOR ACQUISITION OR CONSTRUCTION OF MILITARY UNACCOMPANIED HOUSING.**

Section 2881a of title 10, United States Code, is amended—

(1) in subsection (a)—

(A) by striking ''The Secretary of the Navy'' and inserting ''(1) The Secretary of the Navy''; and

(B) by adding at the end the following new paragraph:

''(2) The Secretary of the Army may carry out a project under the authority of this section or another provision of this subchapter to use the private sector for the acquisition or construction of military unaccompanied housing for all ranks at a location with significant identified barracks deficiencies.'';

(2) in subsection (b), by striking ''The Secretary of the Navy'' and inserting ''The Secretaries of the Army and Navy'';

(3) in subsection (d)(1), by striking ''The Secretary of the Navy'' and inserting ''The Secretaries of the Army and Navy'';

(4) in subsection (e)(1), by striking ''The Secretary of the Navy shall transmit'' and inserting ''The Secretaries of the Army and Navy shall each transmit''; and

(5) in subsection (f)—

(A) by striking ''The authority'' and inserting ''(1) The authority''; and

(B) by adding at the end the following new paragraph:

''(2) The authority of the Secretary of the Army to enter into a contract under the pilot program shall expire September 30, 2010.''.

**SA 5597.** Mr. NELSON of Florida submitted an amendment intended to be proposed to amendment SA 5272 submitted by Mr. NELSON of Florida and intended to be proposed to the bill S. 3001, to authorize appropriations for fiscal year 2009 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy,

to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

In lieu of the matter proposed to be inserted, insert the following:

**SEC. 1433. INTELLIGENCE TRAINING PROGRAM.**

(a) IN GENERAL.—

(1) ESTABLISHMENT OF PROGRAM.—Section 922 of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108–375; 50 U.S.C. 402 note) is amended to read as follows:

**"SEC. 922. INTELLIGENCE TRAINING PROGRAM.**

''(a) DEFINITIONS.—In this section:

''(1) DIRECTOR.—The term 'Director' means the Director of National Intelligence.

''(2) INSTITUTION OF HIGHER EDUCATION.—The term 'institution of higher education' has the meaning given that term in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001).

''(3) INTELLIGENCE COMMUNITY.—The term 'intelligence community' has the meaning given that term in section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4)).

''(4) PROGRAM.—The term 'program' means the grant program authorized by subsection (b).

''(b) AUTHORITY.—The Director is authorized to establish, determine the scope of, and carry out a grant program to promote language analysis, intelligence analysis, and scientific and technical training, as described in this section.

''(c) PURPOSE.—The purpose of the program shall be to increase the number of individuals qualified for an entry-level position within an element of the intelligence community by providing—

''(1) grants to qualified institutions of higher education, as described in subsection (d); and

''(2) grants to qualified individuals, as described in subsection (e).

''(d) GRANTS TO INSTITUTIONS OF HIGHER EDUCATION.—(1) The Director is authorized to provide a grant through the program to an institution of higher education to develop a course of study to prepare students of such institution for an entry-level language analyst position, intelligence analyst position, or scientific and technical position within an element of the intelligence community.

''(2) An institution of higher education seeking a grant under this subsection shall submit an application describing the proposed use of the grant at such time and in such manner as the Director may require.

''(3) The Director shall award a grant to an institution of higher education under this subsection—

''(A) on the basis of the ability of such institution to use the grant to prepare students for an entry-level language analyst position, intelligence analyst position, or scientific and technical position within an element of the intelligence community upon completion of study at such institution; and

''(B) in a manner that provides for geographical diversity among the institutions of higher education that receive such grants.

''(4) An institution of higher education that receives a grant under this subsection shall submit to the Director regular reports regarding the use of such grant, including—

''(A) a description of the benefits to students who participate in the course of study funded by such grant;

''(B) a description of the results and accomplishments related to such course of study; and

''(C) any other information that the Director may require.

''(5) The Director is authorized to provide an institution of higher education that receives a grant under this section with advice and counsel related to the use of such grant.

''(e) GRANTS TO INDIVIDUALS.—(1) The Director is authorized to provide a grant through the program to an individual to assist such individual in pursuing a course of study—

''(A) identified by the Director as meeting a current or emerging mission requirement of an element of the intelligence community; and

''(B) that will prepare such individual for an entry-level language analyst position, intelligence analyst position, or scientific and technical position within an element of the intelligence community.

''(2) The Director is authorized to provide a grant described in paragraph (1) to an individual for the following purposes:

''(A) To provide a monthly stipend for each month that the individual is pursuing a course of study described in paragraph (1).

''(B) To pay the individual's full tuition to permit the individual to complete such a course of study.

''(C) To provide an allowance for books and materials that the individual requires to complete such course of study.

''(D) To pay the individual's expenses for travel that is requested by an element of the intelligence community related to the program.

''(3)(A) The Director shall select individuals to receive grants under this subsection using such procedures as the Director determines are appropriate.

''(B) An individual seeking a grant under this subsection shall submit an application describing the proposed use of the grant at such time and in such manner as the Director may require.

''(C) The Director is authorized to screen and qualify each individual selected to receive a grant under this subsection for the appropriate security clearance without regard to the date that the employment relationship between the individual and the element of the intelligence community is formed.

''(4) An individual who receives a grant under this subsection, at a threshold amount to be determined by the Director, shall enter into an agreement to perform, upon such individual's completion of a course of study described in paragraph (1), 1 year of service within an element of the intelligence community, as approved by the Director, for each academic year for which such individual received grant funds under this subsection.

''(5) If an individual who receives a grant under this subsection—

''(A) fails to complete a course of study described in paragraph (1) or the individual's participation in the program is terminated prior to the completion of such course of study, either by the Director for misconduct or voluntarily by the individual, the individual shall reimburse the United States for the amount of such grant (excluding the individual's stipend, pay, and allowances); or

''(B) fails to complete the service requirement with an element of the intelligence community described in paragraph (4) after completion of such course of study or if the individual's employment with such element of the intelligence community is terminated either by the head of such element for misconduct or voluntarily by the individual prior to the individual's completion of such service requirement, the individual shall—

''(i) reimburse the United States for full amount of such grant (excluding the individual's stipend, pay, and allowances) if the individual did not complete any portion of such service requirement; or

''(ii) reimburse the United States for the percentage of the total amount of such grant (excluding the individual's stipend, pay, and allowances) that is equal to the percentage of the period of such service requirement that the individual did not serve.

''(6)(A) If an individual incurs an obligation to reimburse the United States under subparagraph (A) or (B) of paragraph (5), the head of the element of the intelligence community that employed or intended to employ such individual shall notify the Director of such obligation.

''(B) Except as provided in subparagraph (D), an obligation to reimburse the United States incurred under such subparagraph (A) or (B), including interest due on such obligation, is for all purposes a debt owing the United States.

''(C) A discharge in bankruptcy under title 11, United States Code, shall not release an individual from an obligation to reimburse the United States incurred under such subparagraph (A) or (B) if the final decree of the discharge in bankruptcy is issued within 5 years after the last day of the period of the service requirement described in subparagraph (4).

''(D) The Director may release an individual from part or all of the individual's obligation to reimburse the United States incurred under such subparagraph (A) or (B) if the Director determines that equity or the interests of the United States require such a release.

''(f) MANAGEMENT.—In carrying out the program, the Director shall—

''(1) be responsible for the oversight of the program and the development of policy guidance and implementing procedures for the program;

''(2) solicit participation of institutions of higher education in the program through appropriate means; and

''(3) provide each individual who participates in the program under subsection (e) information on opportunities available for employment within an element of the intelligence community.

''(g) PENALTIES FOR FRAUD.—An institution of higher education or the officers of such institution or an individual who receives a grant under the program as a result of fraud in any aspect of the grant process may be subject to criminal or civil penalties in accordance with applicable Federal law.

''(h) CONSTRUCTION.—Unless mutually agreed to by all parties, nothing in this section may be construed to amend, modify, or abrogate any agreement, contract, or employment relationship that was in effect on the day prior to the date of enactment of the National Defense Authorization Act for Fiscal Year 2009.

''(i) EFFECT OF OTHER LAW.—The Director shall administer the program pursuant to the provisions of chapter 63 of title 31, United States Code and chapter 75 of such title, except that the Comptroller General of the United States shall have no authority, duty, or responsibility in matters related to this program.''.

(2) CLERICAL AMENDMENTS.—

(A) IN GENERAL.—The table of contents in section 2(b) of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108–375; 118 Stat. 1811) is amended by striking the item relating to section 922 and inserting the following:

''Sec. 922. Intelligence training program.''.

(B) TITLE IX.—The table of contents in that appears before subtitle A of title IX of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108–375; 118 Stat. 2023) is amended by striking the item relating to section 922 and inserting the following:

''Sec. 922. Intelligence training program.''.

(b) SENSE OF CONGRESS ON FUNDING.—It is the sense of Congress that for each fiscal

year after fiscal year 2009, Congress should not appropriate funds for the program established under section 922(b) of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005, as amended by subsection (a)(1), in an amount that exceeds the amount of funds requested for that program in the budget for that fiscal year submitted to Congress by the President under section 1105(a) of title 31, United States Code.

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**SA 5598**. Mr. JOHNSON submitted an amendment intended to be proposed to amendment SA 5519 submitted by Mr. JOHNSON (for himself, Mr. THUNE, and Ms. STABENOW) and intended to be proposed to the bill S. 3001, to authorize appropriations for fiscal year 2009 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

On page 2, line 20, strike ''subsection.''.'' and insert ''subsection.

''(4) MAXIMUM AMOUNT FOR CONSOLIDATED SCHOOL DISTRICTS.—Notwithstanding any other provision of this section, a local educational agency that is formed at any time after 1938 by the consolidation of 2 or more former school districts, of which at least 1 former district was eligible for assistance under this section for the fiscal year preceding the year of the consolidation, shall not be eligible under this section for an amount that is more than the total of the amount that each of the former districts received under this section for the fiscal year preceding the year of the consolidation.''.

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**SA 5599**. Mr. BAYH submitted an amendment intended to be proposed to amendment SA 5437 submitted by Mr. BAYH and intended to be proposed to the bill S. 3001, to authorize appropriations for fiscal year 2009 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

In lieu of the matter proposed to be inserted, insert the following:

**SEC. 722. REPORT ON COGNITIVE REHABILITATION FOR MEMBERS OF THE ARMED FORCES WITH TRAUMATIC BRAIN INJURY.**

The Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the House of Representatives a report setting forth the evidence to be required from a long term, integrated study on treatment strategies for cognitive rehabilitation for members of the Armed Forces who have sustained a Traumatic Brain Injury (TBI) in order to permit the Department to Defense to determine how receipt of cognitive rehabilitation by such members for Traumatic Brain Injury could be reimbursed as a health care benefit.

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**SA 5600.** Mr. CARPER submitted an amendment intended to be proposed by him to the bill S. 3001, to authorize appropriations for fiscal year 2009 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place insert the following:

**SEC. ——. AIR CARRIAGE OF INTERNATIONAL MAIL.**

(a) CONTRACTING AUTHORITY.—Section 5402 of title 39, United States Code, is amended by striking subsections (b) and (c) and inserting the following:

''(b) INTERNATIONAL MAIL.—

''(1) IN GENERAL.—

''(A) Except as otherwise provided in this subsection, the Postal Service may contract for the transportation of mail by aircraft between any of the points in foreign air transportation only with certificated air carriers. A contract may be awarded to a certificated air carrier to transport mail by air between any of the points in foreign air transportation that the Secretary of Transportation has authorized the carrier to serve either directly or through a code-share relationship with one or more foreign air carriers.

''(B) If the Postal Service has sought offers or proposals from certificated air carriers to transport mail in foreign air transportation between points, or pairs of points within a geographic region or regions, and has not received offers or proposals that meet Postal Service requirements at a fair and reasonable price from at least 2 such carriers, the Postal Service may seek offers or proposals from foreign air carriers. Where service in foreign air transportation meeting the Postal Service's requirements is unavailable at a fair and reasonable price from at least 2 certificated air carriers, either directly or through a code-share relationship with one or more foreign air carriers, the Postal Service may contract with foreign air carriers to provide the service sought if, when the Postal Service seeks offers or proposals from foreign air carriers, it also seeks an offer or proposal to provide that service from any certificated air carrier providing service between those points, or pairs of points within a geographic region or regions, on the same terms and conditions that are being sought from foreign air carriers.

''(C) For purposes of this subsection, the Postal Service shall use a methodology for determining fair and reasonable prices for the Postal Service designated region or regions developed in consultation with, and with the concurrence of, certificated air carriers representing at least 51 percent of available ton miles in the markets of interest.

''(D) For purposes of this subsection, ceiling prices determined pursuant to the methodology used under subparagraph (C) shall be presumed to be fair and reasonable if they do not exceed the ceiling prices derived from—

''(i) a weighted average based on market rate data furnished by the International Air Transport Association or a subsidiary unit thereof; or

''(ii) if such data are not available from those sources, such other neutral, regularly updated set of weighted average market rates as the Postal Service, with the concurrence of certificated air carriers representing at least 51 percent of available ton miles in the markets of interest, may designate.

''(E) If, for purposes of subparagraph (D)(ii), concurrence cannot be attained, then the most recently available market rate data described in this subparagraph shall continue to apply for the relevant market or markets.

''(2) CONTRACT PROCESS.—The Postal Service shall contract for foreign air transportation as set forth in paragraph (1) through an open procurement process that will provide—

''(A) potential offerors with timely notice of business opportunities in sufficient detail to allow them to make a proposal;

''(B) requirements, proposed terms and conditions, and evaluation criteria to potential offerors; and

''(C) an opportunity for unsuccessful offerors to receive prompt feedback upon request.

''(3) EMERGENCY OR UNANTICIPATED CONDITIONS; INADEQUATE LIFT SPACE.—The Postal Service may enter into contracts to transport mail by air in foreign air transportation with a certificated air carrier or a foreign air carrier without complying with the requirements of paragraphs (b)(1) and (2) if—

''(A) emergency or unanticipated conditions exist that make it impractical for the Postal Service to comply with such requirements; or

''(B) its demand for lift exceeds the space available to it under existing contracts and—

''(i) there is insufficient time available to seek additional lift using procedures that comply with those requirements without compromising the Postal Service's service commitments to its own customers; and

''(ii) the Postal Service first offers any certificated air carrier holding a contract to carry mail between the relevant points the opportunity to carry such excess volumes under the terms of its existing contract.

''(c) GOOD FAITH EFFORT REQUIRED.—The Postal Service and potential offerors shall put a good-faith effort into resolving disputes concerning the award of contracts made under subsection (b).''.

(b) CONFORMING AMENDMENTS TO TITLE 49.—

(1) Section 41901(a) is amended by striking ''39.'' and inserting ''39, and in foreign air transportation under section 5402(b) and (c) of title 39.''.

(2) Section 41901(b)(1) is amended by striking ''in foreign air transportation or''.

(3) Section 41902 is amended—

(A) by striking ''in foreign air transportation or'' in subsection (a);

(B) by striking subsection (b) and inserting the following:

''(b) STATEMENTS ON PLACES AND SCHEDULES.—Every air carrier shall file with the United States Postal Service a statement showing—

''(1) the places between which the carrier is authorized to transport mail in Alaska;

''(2) every schedule of aircraft regularly operated by the carrier between places described in paragraph (1) and every change in each schedule; and

''(3) for each schedule, the places served by the carrier and the time of arrival at, and departure from, each such place.'';

(C) by striking ''subsection (b)(3)'' each place it appears in subsections (c)(1) and (d) and inserting ''subsection (b)(2)''; and

(D) by striking subsections (e) and (f).

(4) Section 41903 is amended by striking ''in foreign air transportation or'' each place it appears.

(5) Section 41904 is amended—

(A) by striking ''**to or in foreign countries**'' in the section heading;

(B) by striking ''to or in a foreign country'' and inserting ''between two points outside the United States''; and

(C) by inserrting after ''transportation.'' the following: ''Nothing in this section shall affect the authority of the Postal Service to make arrangements with noncitizens for the carriage of mail in foreign air transportation under subsections 5402(b) and (c) of title 39.''.

(6) Section 41910 is amended by striking the first sentence and inserting ''The United States Postal Service may weigh mail transported by aircraft between places in Alaska and make statistical and –administrative computations necessary in the interest of mail service.''.

(7) Chapter 419 is amended—

(A) by striking sections 41905, 41907, 41908, and 41911; and

(B) redesignating sections 41906, 41909, 41910, and 49112 as sections 41905, 41906, 41907, and 41908, respectively.

(8) The chapter analysis for chapter 419 is amended by redesignating the items relating to sections 41906, 41909, 41910, and 49112 as relating to sections 41905, 41906, 41907, and 41908, respectively.

(9) Section 101(f) of title 39, United States Code, is amended by striking ''mail and shall make a fair and equitable distribution of mail business to carriers providing similar modes of transportation services to the Postal Service.'' and inserting ''mail.''.

(9) Subsections (b) and (c) of section 3401 of title 39, United States Code, are amended—

(A) by striking ''at rates fixed and determined by the Secretary of Transportation in accordance with section 41901 of title 49'' and inserting ''or, for carriage of mail in foreign air transportation, other air carriers, air taxi operators or foreign air carriers as permitted by section 5402 of this title'';

(B) by striking ''at rates not to exceed those so fixed and determined for scheduled United States air carriers'';

(C) by striking ''scheduled'' each place it appears and inserting ''certificated''; and

(D) by striking the last sentence in each such subsection.

(10) Section 5402(a) of title 39, United States Code, is amended—

(A) by inserting '' 'foreign air carrier'.'' after '' 'interstate air transportation','' in paragraph (2);

(B) by redesignating paragraphs (7) through (23) as paragraphs (8) through (24) and inserting after paragraph (6) the following:

''(7) the term 'certificated air carrier' means an air carrier that holds a certificate of public convenience and necessity issued under section 41102(a) of title 49;'';

(C) by redesignating paragraphs (9) through (24), as redesignated, as paragraphs (10) through (25), respectively, and inserting after paragraph (8) the following:

''(9) the term 'code-share relationship' means a relationship pursuant to which any certificated air carrier or foreign air carrier's designation code is used to identify a flight operated by another air carrier or foreign air carrier;''; and

(D) by inserting ''foreign air carrier,'' after ''terms'' in paragraph (2).

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 2008.

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**SA 5601**. Mr. BIDEN (for himself and Mr. LUGAR) submitted an amendment intended to be proposed to amendment SA 5441 submitted by Mr. REID (for Mr. BIDEN (for himself and Mr. LUGAR)) and intended to be proposed to the bill S. 3001, to authorize appropriations for fiscal year 2009 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

In lieu of the matter proposed to be inserted, insert the following:

**Subtitle E—Other Matters**

**SEC. 1241. SPECIAL ENVOY FOR AFGHANISTAN, PAKISTAN, AND INDIA.**

(a) STATEMENT OF POLICY.—Congress declares that it is in the national interest of the United States that the countries of Afghanistan, Pakistan, and India work together to address common challenges hampering the stability, security, and development of their region and to enhance their cooperation.

(b) ESTABLISHMENT.—The President should appoint a special envoy to promote closer cooperation among the countries referred to in subsection (a).

(c) APPOINTMENT.—The special envoy will be appointed with the advice and consent of the Senate and shall have the rank of ambassador.

(d) DUTIES.—The primary responsibility of the special envoy, reporting through the Assistant Secretary of State for South and Central Asia, shall be to strengthen and facilitate relations among the countries referred to in subsection (a) for the benefit of stability and economic growth in the region.

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**SA 5602.** Mr. BIDEN (for himself and Mr. LUGAR) submitted an amendment intended to be proposed to amendment SA 5566 submitted by Mr. BIDEN (for himself and Mr. LUGAR) and intended to be proposed to the Bill S. 3001, to authorize appropriations for fiscal year 2009 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

In lieu of the matter proposed to be inserted, insert the following:

**Subtitle E—Enhanced Partnership With Pakistan**

**SEC. 1241. SHORT TITLE.**

This subtitle may be cited as the ''Enhanced Partnership with Pakistan Act of 2008''.

**SEC. 1242. 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 vital 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 months of political tension and intrigue, as well as mounting popular concern over governance and their own democratic reform and political development.

(3) A democratic, moderate, modernizing Pakistan would represent the wishes of that country's populace, and serve as a model to other countries around the world.

(4) 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.

(5) 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 6 years.

(6) 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.

(7) 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 use Pakistan's Federally Administered Tribal Areas (FATA) as a haven and a base from which to organize terrorist actions in Pakistan and with global reach.

(8) 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).

(9) According to United States military sources and unclassified intelligence reports, including the July 2007 National Intelligence Estimate entitled, ''The Terrorist Threat to the U.S. Homeland'', the Taliban, al Qaeda, and their Pakistani affiliates continue to use territory in Pakistan as a haven, recruiting location, and rear base for violent actions in both Afghanistan and Pakistan, as well as attacks globally, and pose a threat to the United States homeland.

(10) The toll of terrorist attacks, including suicide bombs, on the people of Pakistan include thousands of citizens killed and wounded across the country, over 1,400 military and police forces killed (including 700 since July 2007), and dozens of tribal, provincial, and national officials targeted and killed, as well as the brazen assassination of former prime minister Benazir Bhutto while campaigning in Rawalpindi on December 27, 2007, and several attempts on the life of President Pervaiz Musharraf, and the rate of such attacks have grown considerably over the past 2 years.

(11) 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.

(12) 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.

(13) 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.

(14) 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. 1243. DEFINITIONS.**

In this subtitle:

(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 the use of subversion and armed conflict.

(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).

(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, paramilitary, and intelligence services of the Government of Pakistan, including the armed forces, Inter-Services Intelligence Directorate, Intelligence Bureau, police forces, Frontier Corps, and Frontier Constabulary.

**SEC. 1244. 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 affirm and build a sustained, long-term, multifaceted relationship with Pakistan;

(3) to further the sustainable economic development of Pakistan and the improvement of the living conditions of its citizens 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;

(4) to work with Pakistan and the countries bordering Pakistan to facilitate peace in the region and harmonious relations between the countries of the region;

(5) 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, or elsewhere in the world;

(6) to work in close cooperation with the Government of Pakistan to coordinate military and paramilitary action against terrorist targets;

(7) 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; and

(8) to expand people-to-people engagement between the United States and Pakistan, through increased educational, technical, and cultural exchanges and other methods.

**SEC. 1245. SENSE OF CONGRESS ON AUTHORIZATION OF FUNDS.**

(a) SENSE OF CONGRESS ON AUTHORIZATION OF FUNDS.—It is the sense of Congress that there should be 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) SENSE OF CONGRESS ON ECONOMIC SUPPORT FUNDS.—It is the sense of Congress that, subject to an improving political and economic climate, 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.

(c) 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 (5), (6), and (7) of section 1244.

(d) USE OF FUNDS.—Funds appropriated pursuant to the authorization of appropriations under this section shall be used for projects determined by an objective measure to be of clear benefit to the people of Pakistan, including projects that promote—

(1) just and democratic governance, including—

(A) political pluralism, equality, and the rule of law;

(B) respect for human and civil rights;

(C) independent, efficient, and effective judicial systems;

(D) transparency and accountability of all branches of government and judicial proceedings; and

(E) anticorruption efforts among police, civil servants, elected officials, and all levels of government administration, including the military;

(2) economic freedom, including—

(A) private sector growth and the sustainable management of natural resources;

(B) market forces in the economy; and

(C) worker rights, including the right to form labor unions and legally enforce provisions safeguarding the rights of workers and local community stakeholders; and

(3) investments in people, particularly women and children, including—

(A) broad-based public primary and secondary education and vocational training for both boys and girls;

(B) the construction of roads, irrigation channels, wells, and other physical infrastructure;

(C) agricultural development to ensure food staples in times of severe shortage;

(D) quality public health, including medical clinics with well trained staff serving rural and urban communities; and

(E) public-private partnerships in higher education to ensure a breadth and consistency of Pakistani graduates to help strengthen the foundation for improved governance and economic vitality.

(e) PREFERENCE FOR BUILDING LOCAL CAPACITY.—The President is encouraged, as appropriate, to utilize Pakistani firms and community and local nongovernmental organizations in Pakistan to provide assistance under this section.

(f) AUTHORITY TO USE FUNDS FOR OPERATIONAL EXPENSES.—Funds authorized by this section may be used for operational expenses. Funds may also be made available to the Inspector General of the United States Agency for International Development to provide audits and program reviews of projects funded pursuant to this section.

(g) USE OF SPECIAL AUTHORITY.—The President is encouraged to utilize the authority of section 633(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2393(a)) to expedite assistance to Pakistan under this section.

(h) USE OF FUNDS.—Funds 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 by the United States mission in Pakistan, subject to existing reporting and notification requirements.

(i) NOTIFICATION REQUIREMENTS.—

(1) NOTICE OF ASSISTANCE FOR BUDGET SUPPORT.—The President shall notify Congress not later than 15 days before providing any assistance under this section as budgetary support to the Government of Pakistan or any element of such Government.

(2) ANNUAL REPORT.—The President shall submit to the appropriate congressional committees a report on assistance provided under this section. The report shall describe—

(A) all expenditures under this section, by region;

(B) the intended purpose for such assistance, the strategy or plan with which it is aligned, and a timeline for completion associated with such strategy or plan;

(C) the partner or partners contracted for that purpose, as well as a measure of the effectiveness of the partner or partners;

(D) any shortfall in financial, physical, technical, or human resources that hinder effective use and monitoring of such funds; and

(E) 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.

(j) SENSE OF CONGRESS ON FUNDING OF PRIORITIES.—It is the sense of Congress that the Government of Pakistan should allocate a greater portion of its budget, consistent with its ''Poverty Reduction Strategy Paper'', to the recurrent costs associated with education, health, and other priorities described in this section.

**SEC. 1246. 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 from operating in the territory of Pakistan;

(2) are making concerted efforts to prevent the Taliban 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 in 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.

**SEC. 1247. 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 the primary support for 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;

(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); and

(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.

**SEC. 1248. AFGHANISTAN-PAKISTAN BORDER 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 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 border areas of Pakistan and Afghanistan, especially in known or suspected safe havens such as Pakistan's FATA, the NWFP, parts of Balochistan, and other critical areas in the south and east border areas of Afghanistan.

(b) REPORT.—Not later than June 1, 2009, the Secretary of State shall submit to the appropriate congressional committees a detailed description of a comprehensive strategy for counterterrorism and counterinsurgency in the FATA, as well as proposed timelines and budgets for implementing the strategy.

**SEC. 1249. 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;

(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; and

(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.

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**SA 5603.** Mr. COBURN submitted an amendment intended to be proposed by him to the bill S. 3001, to authorize appropriations for fiscal year 2009 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, add the following:

**SEC. ___. PROHIBITION ON USE OF EARMARKS TO AWARD NO BID CONTRACTS AND NONCOMPETITIVE GRANTS.**

(a) PROHIBITION.—

(1) CONTRACTS.—

(A) IN GENERAL.—Notwithstanding any other provision of this Act, all contracts greater than $5 million awarded by the Department of Defense to implement new programs or projects, including congressional initiatives, shall be awarded using competitive procedures in accordance with the requirements of section 2304 of title 10, United States Code, and the Federal Acquisition Regulation.

(B) BID REQUIREMENT.—Except as provided in paragraph (3), no contract maybe awarded by the Department of Defense to implement a new program or project, including a congressional initiative, unless more than one bid is received for such contract.

(2) GRANTS.—Notwithstanding any other provision of this Act, no funds may be awarded by the Department of Defense by grant or cooperative agreement to implement a new program or project including a congressional initiative unless the process used to award such grant or cooperative agreement uses competitive or merit-based procedures to select the grantee or award recipient. Except as provided in paragraph (3), no such grant or cooperative agreement may be awarded unless applications for such grant or cooperative agreement are received from two or more applicants that are not from the same organization and do not share any financial, fiduciary, or other organizational relationship.

(3) WAIVER AUTHORITY.—IN GENERAL.—If the Secretary of Defense does not receive more than one bid for a contract under paragraph (I)(B) or does not receive more than one application from unaffiliated applicants for a grant or cooperative agreement under paragraph (2), the Secretary may waive such bid or application requirement if the Secretary determines that the new program or project—

(A) cannot be implemented without a waiver; and

(B) will help meet important national defense needs.

(b) Congressional Initiative Defined.—In this section, the term ''congressional initiative'' means a provision of law or a directive contained within a committee report or joint statement of managers of an appropriations Act that specifies—

(1) the identity of a person or entity selected to carry out a project, including a defense system, for which funds are appropriated or otherwise made available by that provision of law or directive and that was not requested by the President in a budget submitted to Congress;

(2) the specific location at which the work for a project is to be done; and

(3) the amount of the funds appropriated or otherwise made available for such project.

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**SA 5604.** Mr. DURBIN (for himself and Mr. BROWNBACK) submitted an amendment intended to be proposed by him to the bill S. 3001, to authorize appropriations for fiscal year 2009 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

On page 360, after line 20, add the following:

**Subtitle E—Child Soldiers Prevention**

**SEC. 1241. SHORT TITLE.**

This subtitle may be cited as the ''Child Soldiers Prevention Act of 2008''.

**SEC. 1242. DEFINITIONS.**

In this subtitle:

(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term ''appropriate congressional committees'' means—

(A) the Committee on Foreign Relations of the Senate;

(B) the Committee on Appropriations of the Senate;

(C) the Committee on Foreign Affairs of the House of Representatives; and

(D) the Committee on Appropriations of the House of Representatives.

(2) CHILD SOLDIER.—Consistent with the provisions of the Optional Protocol to the Convention of the Rights of the Child, the term ''child soldier''—

(A) means—

(i) any person under 18 years of age who takes a direct part in hostilities as a member of governmental armed forces;

(ii) any person under 18 years of age who has been compulsorily recruited into governmental armed forces;

(iii) any person under 15 years of age who has been voluntarily recruited into governmental armed forces; or

(iv) any person under 18 years of age who has been recruited or used in hostilities by armed forces distinct from the armed forces of a state; and

(B) includes any person described in clauses (ii), (iii), or (iv) of subparagraph (A) who is serving in any capacity, including in a support role such as a cook, porter, messenger, medic, guard, or sex slave.

**SEC. 1243. PROHIBITION.**

(a) IN GENERAL.—Subject to subsections (c), (d), and (e), none of the funds appropriated or otherwise made available for international military education and training, foreign military financing, or the transfer of excess defense articles under section 516 of the Foreign Assistance Act of 1961 (22 U.S.C. 2321j), the Arms Export Control Act

(22 U.S.C. 2751), or under any Act making appropriations for foreign operations, export financing, and related programs may be obligated or otherwise made available, and no licenses for direct commercial sales of military equipment may be issued to, the government of a country that is clearly identified, pursuant to subsection (b) for the most recent year preceding the fiscal year in which the appropriated funds, transfer, or license, would have been used or issued in the absence of a violation of this subtitle, as having governmental armed forces or government-supported armed groups, including paramilitaries, militias, or civil defense forces, that recruit or use child soldiers.

(b) IDENTIFICATION AND NOTIFICATION TO COUNTRIES IN VIOLATION OF STANDARDS.—

(1) PUBLICATION OF LIST OF FOREIGN GOVERNMENTS.—The Secretary of State shall include a list of the foreign governments that have violated the standards under this subtitle and are subject to the prohibition in subsection (a) in the report required by section 110(b) of the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7107(b)).

(2) NOTIFICATION OF FOREIGN COUNTRIES.—The Secretary of State shall formally notify any government identified pursuant to subsection (a).

(c) NATIONAL INTEREST WAIVER.—

(1) WAIVER.—The President may waive the application to a country of the prohibition in subsection (a) if the President determines that such waiver is in the national interest of the United States.

(2) PUBLICATION AND NOTIFICATION.—Not later than 45 days after each waiver is granted under paragraph (1), the President shall notify the appropriate congressional committees of the waiver with the justification for granting such waiver.

(d) REINSTATEMENT OF ASSISTANCE.—The President may provide to a country assistance otherwise prohibited under subsection (a) upon certifying to the appropriate congressional committees that the government of such country—

(1) has implemented measures that include an action plan and actual steps to come into compliance with the standards outlined in section 1244(b); and

(2) has implemented policies and mechanisms to prohibit and prevent future government or government-supported use of child soldiers and to ensure that no children are recruited, conscripted, or otherwise compelled to serve as child soldiers.

(e) EXCEPTION FOR PROGRAMS DIRECTLY RELATED TO ADDRESSING THE PROBLEM OF CHILD SOLDIERS OR PROFESSIONALIZATION OF THE MILITARY.—

(1) IN GENERAL.—The President may provide assistance to a country for international military education, training, and nonlethal supplies (as defined in section 2557(d)(1)(B) of title 10, United States Code) otherwise prohibited under subsection (a) upon certifying to the appropriate congressional committees that—

(A) the government of such country is taking reasonable steps to implement effective measures to demobilize child soldiers in its forces or in government-supported paramilitaries and is taking reasonable steps within the context of its national resources to provide demobilization, rehabilitation, and reintegration assistance to those former child soldiers; and

(B) the assistance provided by the United States Government to the government of such country will go to programs that will directly support professionalization of the military.

(2) LIMITATION.—The exception under paragraph (1) may not remain in effect for a country for more than 2 years.

**SEC. 1244. REPORTS.**

(a) INVESTIGATION OF ALLEGATIONS REGARDING CHILD SOLDIERS.—United States missions abroad shall thoroughly investigate reports of the use of child soldiers.

(b) INFORMATION FOR ANNUAL HUMAN RIGHTS REPORTS.—In preparing those portions of the annual Human Rights Report that relate to child soldiers under sections 116 and 502B of the Foreign Assistance Act of 1961 (22 U.S.C. 2151n (f) and 2304(h)), the Secretary of State shall ensure that such reports include a description of the use of child soldiers in each foreign country, including—

(1) trends toward improvement in such country of the status of child soldiers or the continued or increased tolerance of such practices; and

(2) the role of the government of such country in engaging in or tolerating the use of child soldiers.

(c) ANNUAL REPORT TO CONGRESS.—If, in any of the 5 years following the date of the enactment of this Act, a country or countries are notified pursuant to section 1243(b)(2) or a waiver is granted pursuant to section 1243(c)(1), the President shall submit a report to the appropriate congressional committees not later than June 15 of the following year that contains—

(1) a list of the countries receiving notification that they are in violation of the standards under this subtitle;

(2) a list of any waivers or exceptions exercised under this subtitle;

(3) justification for any such waivers and exceptions; and

(4) a description of any assistance provided under this subtitle pursuant to the issuance of such waiver.

**SEC. 1245. TRAINING FOR FOREIGN SERVICE OFFICERS.**

Section 708 of the Foreign Service Act of 1980 (22 U.S.C. 4028) is amended by adding at the end the following:

''(c) The Secretary of State, with the assistance of other relevant officials, shall establish as part of the standard training provided for chiefs of mission, deputy chiefs of mission, and other officers of the Service who are or will be involved in the assessment of child soldier use or the drafting of the annual Human Rights Report, instruction on matters related to child soldiers, and the substance of the Child Soldiers Prevention Act of 2008.''.

**SEC. 1246. EFFECTIVE DATE; APPLICABILITY.**

This subtitle, and the amendments made by this subtitle, shall take effect 180 days after the date of the enactment of this Act and shall apply to funds obligated after such effective date.

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**SA 5605.** Mr. DURBIN (for himself and Mr. BROWNBACK) submitted an amendment intended to be proposed to amendment SA 5511 submitted by Mr. DURBIN (for himself and Mr. BROWNBACK) and intended to be proposed to the bill S. 3001, to authorize appropriations for fiscal year 2009 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

On page 1 strike line 4 to the end and insert the following:

**SEC. 1241. SHORT TITLE.**

This subtitle may be cited as the ''Child Soldiers Prevention Act of 2008''.

**SEC. 1242. DEFINITIONS.**

In this subtitle:

(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term ''appropriate congressional committees'' means—

(A) the Committee on Foreign Relations of the Senate;

(B) the Committee on Appropriations of the Senate;

(C) the Committee on Foreign Affairs of the House of Representatives; and

(D) the Committee on Appropriations of the House of Representatives.

(2) CHILD SOLDIER.—Consistent with the provisions of the Optional Protocol to the Convention of the Rights of the Child, the term ''child soldier''—

(A) means—

(i) any person under 18 years of age who takes a direct part in hostilities as a member of governmental armed forces;

(ii) any person under 18 years of age who has been compulsorily recruited into governmental armed forces;

(iii) any person under 15 years of age who has been voluntarily recruited into governmental armed forces; or

(iv) any person under 18 years of age who has been recruited or used in hostilities by armed forces distinct from the armed forces of a state; and

(B) includes any person described in clauses (ii), (iii), or (iv) of subparagraph (A) who is serving in any capacity, including in a support role such as a cook, porter, messenger, medic, guard, or sex slave.

**SEC. 1243. PROHIBITION.**

(a) IN GENERAL.—Subject to subsections (c), (d), and (e), none of the funds appropriated or otherwise made available for international military education and training, foreign military financing, or the transfer of excess defense articles under section 516 of the Foreign Assistance Act of 1961 (22 U.S.C. 2321j), the Arms Export Control Act (22 U.S.C. 2751), or under any Act making appropriations for foreign operations, export financing, and related programs may be obligated or otherwise made available, and no licenses for direct commercial sales of military equipment may be issued to, the government of a country that is clearly identified, pursuant to subsection (b) for the most recent year preceding the fiscal year in which the appropriated funds, transfer, or license, would have been used or issued in the absence of a violation of this subtitle, as having governmental armed forces or government-supported armed groups, including paramilitaries, militias, or civil defense forces, that recruit or use child soldiers.

(b) IDENTIFICATION AND NOTIFICATION TO COUNTRIES IN VIOLATION OF STANDARDS.—

(1) PUBLICATION OF LIST OF FOREIGN GOVERNMENTS.—The Secretary of State shall include a list of the foreign governments that have violated the standards under this subtitle and are subject to the prohibition in subsection (a) in the report required by section 110(b) of the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7107(b)).

(2) NOTIFICATION OF FOREIGN COUNTRIES.—The Secretary of State shall formally notify any government identified pursuant to subsection (a).

(c) NATIONAL INTEREST WAIVER.—

(1) WAIVER.—The President may waive the application to a country of the prohibition in subsection (a) if the President determines that such waiver is in the national interest of the United States.

(2) PUBLICATION AND NOTIFICATION.—Not later than 45 days after each waiver is granted under paragraph (1), the President shall notify the appropriate congressional committees of the waiver with the justification for granting such waiver.

(d) REINSTATEMENT OF ASSISTANCE.—The President may provide to a country assistance otherwise prohibited under subsection

(a) upon certifying to the appropriate congressional committees that the government of such country—

(1) has implemented measures that include an action plan and actual steps to come into compliance with the standards outlined in section 1244(b); and

(2) has implemented policies and mechanisms to prohibit and prevent future government or government-supported use of child soldiers and to ensure that no children are recruited, conscripted, or otherwise compelled to serve as child soldiers.

(e) EXCEPTION FOR PROGRAMS DIRECTLY RELATED TO ADDRESSING THE PROBLEM OF CHILD SOLDIERS OR PROFESSIONALIZATION OF THE MILITARY.—

(1) IN GENERAL.—The President may provide assistance to a country for international military education, training, and nonlethal supplies (as defined in section 2557(d)(1)(B) of title 10, United States Code) otherwise prohibited under subsection (a) upon certifying to the appropriate congressional committees that—

(A) the government of such country is taking reasonable steps to implement effective measures to demobilize child soldiers in its forces or in government-supported paramilitaries and is taking reasonable steps within the context of its national resources to provide demobilization, rehabilitation, and reintegration assistance to those former child soldiers; and

(B) the assistance provided by the United States Government to the government of such country will go to programs that will directly support professionalization of the military.

(2) LIMITATION.—The exception under paragraph (1) may not remain in effect for a country for more than 2 years.

**SEC. 1244. REPORTS.**

(a) INVESTIGATION OF ALLEGATIONS REGARDING CHILD SOLDIERS.—United States missions abroad shall thoroughly investigate reports of the use of child soldiers.

(b) INFORMATION FOR ANNUAL HUMAN RIGHTS REPORTS.—In preparing those portions of the annual Human Rights Report that relate to child soldiers under sections 116 and 502B of the Foreign Assistance Act of 1961 (22 U.S.C. 2151n (f) and 2304(h)), the Secretary of State shall ensure that such reports include a description of the use of child soldiers in each foreign country, including—

(1) trends toward improvement in such country of the status of child soldiers or the continued or increased tolerance of such practices; and

(2) the role of the government of such country in engaging in or tolerating the use of child soldiers.

(c) ANNUAL REPORT TO CONGRESS.—If, in any of the 5 years following the date of the enactment of this Act, a country or countries are notified pursuant to section 1243(b)(2) or a waiver is granted pursuant to section 1243(c)(1), the President shall submit a report to the appropriate congressional committees not later than June 15 of the following year that contains—

(1) a list of the countries receiving notification that they are in violation of the standards under this subtitle;

(2) a list of any waivers or exceptions exercised under this subtitle;

(3) justification for any such waivers and exceptions; and

(4) a description of any assistance provided under this subtitle pursuant to the issuance of such waiver.

**SEC. 1245. TRAINING FOR FOREIGN SERVICE OFFICERS.**

Section 708 of the Foreign Service Act of 1980 (22 U.S.C. 4028) is amended by adding at the end the following:

''(c) The Secretary of State, with the assistance of other relevant officials, shall establish as part of the standard training provided for chiefs of mission, deputy chiefs of mission, and other officers of the Service who are or will be involved in the assessment of child soldier use or the drafting of the annual Human Rights Report, instruction on matters related to child soldiers, and the substance of the Child Soldiers Prevention Act of 2008.''.

**SEC. 1246. EFFECTIVE DATE; APPLICABILITY.**

This subtitle, and the amendments made by this subtitle, shall take effect 180 days after the date of the enactment of this Act and shall apply to funds obligated after such effective date.

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**SA 5606.** Mr. REID submitted an amendment intended to be proposed to amendment SA 5355 submitted by Mr. GRAHAM (for himself and Mr. LIEBERMAN) and intended to be proposed to the bill S. 3001, authorize appropriations for fiscal year 2009 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

In lieu of the matter proposed to be inserted, insert the following:

**SEC. 1041. SENSE OF SENATE ON LEGISLATIVE ACTION REGARDING HABEAS CORPUS REVIEW FOR DETAINEES AT GUANTANAMO BAY, CUBA.**

(a) FINDINGS.—The Senate makes the following findings:

(1) Seven years after the terrorist attacks of September 11, 2001, the perpetrators of that heinous deed have yet to be brought to justice.

(2) Policies that circumvent the requirements of the United States Constitution and international treaties to which the United States is a signatory have created a legal morass that has undermined efforts to bring accused terrorists to justice.

(3) On four occasions, the Supreme Court has rejected the current Administration's legal rules for individuals at Guantanamo Bay, Cuba, and elsewhere, causing years of delay and uncertainty:

(A) In Rasul v. Bush, 542 U.S. 466 (2004), the Supreme Court held that the Federal habeas corpus statute applied to detainees held at Guantanamo Bay.

(B) In Hamdi v. Rumsfeld, 542 U.S. 507 (2004), the Supreme Court held that a United States citizen detained as an enemy combatant on United States soil must be provided a meaningful opportunity to challenge the factual basis for his detention.

(C) In Hamdan v. Rumsfeld, 548 U.S. 557 (2006), the Supreme Court held that the military commissions established by the Administration violated the Uniform Code of Military Justice and the Geneva Conventions.

(D) Most recently, in Boumediene v. Bush, 128 S.Ct. 2229 (2008), the Supreme Court held unconstitutional relevant provisions of the Military Commissions Act of 2006 (Public Law 109–366), finding that the detainees at Guantanamo Bay have a right to challenge the legality of their detention under the United States Constitution.

(4) It is important that Congress proceed in a deliberate and thoughtful way to write rules for the treatment of alleged terrorists that will pass constitutional muster.

(5) Such rules should allow the United States Government to detain, interrogate, and try terrorists who harm the American people or conspire to do so, while also providing procedures that result in a reliable determination of whether the detainee has in fact engaged in such conduct.

(6) Committees of Congress should continue to hold public hearings, consult with national security and legal experts, and take the time to write responsible, bipartisan legislation regarding this complex issue as necessary.

(7) Federal judges in the District of Columbia have already begun to consider habeas corpus petitions filed by detainees at Guantanamo Bay and are well equipped to manage the pending litigation. The Supreme Court, in Boumediene v. Bush, expressed confidence that any remaining questions ''are within the expertise and competence of the District Court to address in the first instance''.

(8) The Federal courts have consolidated all of the habeas corpus cases of Guantanamo Bay detainees in the District Court for the District of Columbia, and the chief judge of that court is coordinating key procedural issues in these cases.

(9) Federal courts have a long history of considering habeas corpus petitions in sensitive cases and can be trusted to adjudicate these matters in a manner that does not compromise national security in any respect.

(10) The Federal courts—particularly those of the District of Columbia—have repeatedly demonstrated that they can protect classified information. Federal judges responsibly handled classified information in the cases of Rasul v. Bush, Hamdan v. Rumsfeld, and Boumediene v. Bush, and in the review process under the Detainee Treatment Act in such cases as Bismullah v. Gates, 501 F.3d 178 (D.C. Cir. 2007), and Parhat v. Gates, 532 F.3d 834 (D.C. Cir. 2008). Extensive experience with the Classified Information Procedures Act (CIPA) and the Freedom of Information Act (FOIA) further demonstrates the competence of Federal judges to handle highly sensitive information in a manner that fully addresses national security concerns.

(11) Both candidates for President of the major political parties have called for significant changes to detention operations at Guantanamo Bay. A new President should be afforded an opportunity to review existing policies and make such recommendations to Congress as he considers necessary and appropriate.

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

(1) the decision of the Supreme Court in Boumediene v. Bush presents complex legal and logistical issues that cannot be satisfactorily resolved in the closing weeks of the 110th Congress;

(2) Congress should enact legislation to address these complex matters, as necessary, only after careful and responsible deliberation;

(3) a hasty legislative response to the Boumediene v. Bush decision would unduly complicate pending litigation and could result in another judicial reversal that would set back the goal of establishing stable and effective anti-terror detention policies;

(4) the committees of Congress having jurisdiction should undertake, after the convening of the 111th Congress, a full review of the legal and policy issues presented by the opinion in Boumediene v. Bush; and

(5) the new President should conduct a comprehensive review of anti-terror detention policies and should make recommendations to Congress during his first six months in office for such legislation as he considers necessary to carry out an effective strategy for preventing terrorism and bringing alleged terrorists to justice.

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**SA 5607.** Mr. NELSON of Florida submitted an amendment intended to be

proposed to amendment SA 5536 submitted by Mr. SESSIONS (for himself, Mr. NELSON of Nebraska, Mr. LIEBERMAN, Mr. KYL, Mr. INHOFE, Mr. GRAHAM, Mr. VITTER, Mr. BROWNBACK, and Mr. CHAMBLISS) and intended to be proposed to the bill S. 3001, to authorize appropriations for fiscal year 2009 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

In lieu of the matter proposed to be inserted, insert the following:

**SEC. 1083. SENSE OF THE SENATE ON SUPPORT OF CZECH REPUBLIC AND POLAND FOR MISSILE DEFENSE EFFORTS.**

(a) FINDINGS.—The Senate makes the following findings:

(1) The Heads of State and Government of the North Atlantic Treaty Organization (NATO) agreed at the Bucharest Summit on April 3, 2008, that ''[b]allistic missile proliferation poses an increasing threat to Allies' forces, territory and populations''.

(2) As part of a broad response to counter the ballistic missile threat, the Heads of State and Government of NATO ''recognise the substantial contribution to the protection of Allies from long-range ballistic missiles to be provided by the planned deployment of European-based United States missile defence assets''.

(3) At the Bucharest Summit, the NATO Heads of State and Government stated that, with respect to the planned deployment of United States missile defense capability, ''[w]e are exploring ways to link this capability with current NATO missile defence efforts as a way to ensure that it would be an integral part of any future NATO wide missile defence architecture''.

(4) At the Bucharest Summit, the NATO Heads of State and Government stated that, ''[b]earing in mind the principle of the indivisibility of Allied security as well as NATO solidarity, we task the Council in Permanent Session to develop options for a comprehensive missile defence architecture to extend coverage to all Allied territory and populations not otherwise covered by the United States system for review at our 2009 Summit, to inform any future political decision''.

(5) On July 8, 2008, the United States Government and the Government of the Czech Republic signed an agreement on the stationing of a United States radar facility in the Czech Republic to track ballistic missiles.

(6) On August 20, 2008, the United States Government and the Government of Poland signed an agreement on the stationing of 10 ground-based missile defense interceptors in Poland.

(7) Supplemental Status of Forces Agreements (SOFA) regarding the missile defense deployment agreements, not yet signed, are required elements of any final agreements to deploy the planned missile defense capabilities in the Czech Republic and Poland.

(8) In order to take legal effect, any final bilateral missile defense agreements must be submitted to and ratified by the parliaments of the Czech Republic and Poland, respectively.

(9) The deployment of the planned United States missile defense system in the Czech Republic and Poland would not provide protection to southeastern portions of NATO territory against missile attack. Additional missile defense capabilities would be required to protect these areas against missile attack, including against existing short- and medium-range missile threats.

(10) According to the Director of Operational Test and Evaluation, the ground-based interceptor planned to be deployed in Poland would require three flight tests to demonstrate whether it could accomplish its mission in an operationally effective manner. Such testing is not expected to begin before the fall of 2009, and is unlikely to be concluded before 2011.

(11) The Government of Iran continues to defy international calls to cease its uranium enrichment program, has deployed hundreds of short- and medium-range ballistic missiles, and continues to develop and test ballistic missiles of increasing range, as well as a space launch vehicle.

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

(1) the decisions by the Governments of Poland and the Czech Republic to station elements of a missile defense system on their territory are a clear affirmation of the commitment of those governments to support the defense of NATO member states, including the United States, against the threat of long-range ballistic missiles;

(2) the Senate—

(A) recognizes the importance of these decisions taken by the Governments of Poland and the Czech Republic, as well as the statements made by NATO Heads of State and Government relative to missile defense at the Bucharest Summit in April 2008; and

(B) notes the care and seriousness with which the Governments of Poland and the Czech Republic have undertaken their evaluation and consideration of these issues; and

(3) these decisions will deepen the strategic relationship between the United States Government and the Governments of Poland and the Czech Republic and could make a substantial contribution to the collective capability of NATO to counter future long-range ballistic missile threats.

(c) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to modify the requirements of section 226 of the National Defense Authorization Act for Fiscal Year 2008 (Public Law 110–181; 122 Stat. 41), or [section 232] of this Act.

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**SA 5608.** Mr. CORNYN submitted an amendment intended to be proposed by him to the bill S. 3001, to authorize appropriations for fiscal year 2009 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle G of title V, add the following:

**SEC. 587. PROCEDURES FOR COLLECTION AND DELIVERY OF MARKED ABSENTEE BALLOTS OF ABSENT OVERSEAS UNIFORMED SERVICES VOTERS.**

(a) PROCEDURES.—

(1) IN GENERAL.—The Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. 1973ff et seq.) is amended by inserting after section 103 the following new section:

**''SEC. 103A. PROCEDURES FOR COLLECTION AND DELIVERY OF MARKED ABSENTEE BALLOTS OF ABSENT OVERSEAS UNIFORMED SERVICES VOTERS.**

''(a) COLLECTION.—The Presidential designee shall establish procedures for collecting marked absentee ballots of absent overseas uniformed services voters in regularly scheduled general elections for Federal office, including absentee ballots prepared by States and Federal write-in absentee ballots prescribed under section 103, and for delivering the ballots to the appropriate election officials.

''(b) ENSURING DELIVERY PRIOR TO CLOSING OF POLLS.—

''(1) IN GENERAL.—Under the procedures established under this section, the Presidential designee shall ensure that any marked absentee ballot for a regularly scheduled general election for Federal office which is collected prior to the deadline described in paragraph (3) is delivered to the appropriate election official in a State prior to the time established by the State for the closing of the polls on the date of the election.

''(2) CONTRACT WITH EXPRESS MAIL PROVIDERS.—

''(A) IN GENERAL.—The Presidential designee shall carry out this section by contract with one or more providers of express mail services.

''(B) SPECIAL RULE FOR VOTERS IN JURISDICTIONS USING POST OFFICE BOXES FOR COLLECTION OF MARKED ABSENTEE BALLOTS.—In the case of an absent uniformed services voter who wishes to use the procedures established under this section and whose marked absentee ballot is required by the appropriate election official to be delivered to a post office box, the Presidential designee shall enter into an agreement with the United States Postal Service for the delivery of the ballot to the election official under the procedures established under this section.

''(3) DEADLINE DESCRIBED.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), the deadline described in this paragraph is noon (in the location in which the ballot is collected) on the last Tuesday that precedes the date of the election.

''(B) AUTHORITY TO ESTABLISH ALTERNATIVE DEADLINE FOR CERTAIN LOCATIONS.—If the Presidential designee determines that the deadline described in subparagraph (A) is not sufficient to ensure timely delivery of the ballot under paragraph (1) with respect to a particular location because of remoteness or other factors, the Presidential designee may establish as an alternative deadline for that location the latest date occurring prior to the deadline described in subparagraph (A) which is sufficient to ensure timely delivery of the ballot under paragraph (1).

''(4) PROHIBITION ON REFUSAL BY STATES TO ACCEPT MARKED ABSENTEE BALLOTS NOT DELIVERED BY POSTAL SERVICE OR IN PERSON.—A State may not refuse to accept or process any marked absentee ballot delivered under the procedures established under this section on the grounds that the ballot is received by the State other than through delivery by the United States Postal Service.

''(c) TRACKING MECHANISM.—Under the procedures established under this section, the entity responsible for delivering marked absentee ballots to the appropriate election officials shall implement procedures to enable any individual whose ballot for a regularly scheduled general election for Federal office is collected by the Presidential designee to determine whether the ballot has been delivered to the appropriate election official, using the Internet, an automated telephone system, or such other methods as the entity may provide.

''(d) ABSENT OVERSEAS UNIFORMED SERVICES VOTER DEFINED.—In this section, the term 'absent overseas uniformed services voter' means an overseas voter described in section 107(5)(A).

''(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Presidential designee such sums as may be necessary to carry out this section.''.

(2) EFFECTIVE DATE.—Section 103A of the Uniformed and Overseas Citizens Absentee

Voting Act, as added by this subsection, shall apply with respect to the regularly scheduled general election for Federal office held on or after—

(A) November 2008; or

(B) if the Presidential designee determines that such date is not feasible, a date determined feasible by the Presidential designee (but in no case later than November 2010).

(b) CONFORMING AMENDMENTS.—

(1) FEDERAL RESPONSIBILITIES.—Section 101(b) of such Act (42 U.S.C. 1973ff(b)) is amended—

(A) by striking ''and'' at the end of paragraph (6);

(B) by striking the period at the end of paragraph (7) and inserting ''; and''; and

(C) by adding at the end the following new paragraph:

''(8) carry out section 103A with respect to the collection and delivery of marked absentee ballots of absent overseas uniformed services voters in elections for Federal office.''.

(2) STATE RESPONSIBILITIES.—Section 102(a) of such Act (42 U.S.C. 1973ff—1(a)) is amended—

(A) by striking ''and'' at the end of paragraph (4);

(B) by striking the period at the end of paragraph (5) and inserting ''; and''; and

(C) by adding at the end the following new paragraph:

''(6) carry out section 103A(b)(2) with respect to the processing and acceptance of marked absentee ballots of absent overseas uniformed services voters.''.

(c) OUTREACH FOR ABSENT OVERSEAS UNIFORMED SERVICES VOTERS ON PROCEDURES.—The Presidential designee shall take appropriate actions to inform individuals who are anticipated to be absent overseas uniformed services voters in the regularly scheduled general election for Federal office held in November 2008 of the procedures for the collection and delivery of marked absentee ballots established pursuant to section 103A of the Uniformed and Overseas Citizens Absentee Voting Act, as added by subsection (a), including the manner in which such voters may utilize such procedures for the submittal of marked absentee ballots in regularly scheduled elections for Federal office.

(d) REPORTS ON UTILIZATION OF PROCEDURES.—

(1) REPORTS REQUIRED.—Not later than 180 days after each regularly scheduled general election for Federal office held after January 1, 2008, the Presidential designee shall submit to the congressional defense committees a report on the utilization of the procedures for the collection and delivery of marked absentee ballots established pursuant to section 103A of the Uniformed and Overseas Citizens Absentee Voting Act, as so added, during such general election.

(2) ELEMENTS.—Each report under paragraph (1) shall include, for the general election covered by such report, a description of the utilization of the procedures described in that paragraph during such general election, including the number of marked absentee ballots collected and delivered under such procedures.

(e) REPORT ON STATUS OF IMPLEMENTATION.—

(1) REPORT REQUIRED.—Not later than one year after the date of the enactment of this Act, the Presidential designee shall submit to the congressional defense committees a report on the status of the implementation of the program for the collection and delivery of marked absentee ballots established pursuant to section 103A of the Uniformed and Overseas Citizens Absentee Voting Act, as added by subsection (a).

(2) ELEMENTS.—The report under paragraph (1) shall include a status of the implementation of the program and a detailed description of the specific steps taken towards its implementation for November 2008, November 2009, and November 2010.

(f) DEFINITIONS.—In this section:

(1) The term ''absent overseas uniformed services voter'' has the meaning given that term in section 103A(d) of the Uniformed and Overseas Citizens Absentee Voting Act, as added by subsection (a).

(2) The term ''Presidential designee'' means the official designated under section 101(a) of the Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. 1973ff(a)).

**SEC. 588. PROHIBITION ON REFUSAL TO ACCEPT VOTER REGISTRATION AND ABSENTEE BALLOT APPLICATIONS AND FEDERAL WRITE-IN ABSENTEE BALLOTS FOR FAILURE TO MEET NONESSENTIAL REQUIREMENTS.**

(a) VOTER REGISTRATION AND ABSENTEE BALLOT APPLICATIONS.—Section 102 of the Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. 1973ff–1) is amended by adding at the end the following new subsection:

''(e) PROHIBITING REFUSAL TO ACCEPT APPLICATIONS FOR FAILURE TO MEET NONESSENTIAL REQUIREMENTS.—A State shall accept and process any otherwise valid voter registration application or absentee ballot application (including the official post card form prescribed under section 101) submitted in any manner by an absent uniformed services voter or overseas voter that contains the information required on the official post card form prescribed under section 101 (other than information which the Presidential designee, in consultation with the Election Assistance Commission and the Election Assistance Commission Board of Advisors under section 214(a)(1)–(16), determines, under regulations promulgated by the Presidential designee, is not clearly necessary to prevent fraud in the conduct of elections).''.

(b) FEDERAL WRITE-IN ABSENTEE BALLOT.—Section 103 of such Act (42 U.S.C. 1973ff–2) is amended—

(1) by redesignating subsection (f) as subsection (g); and

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

''(f) PROHIBITING REFUSAL TO ACCEPT BALLOT FOR FAILURE TO MEET NONESSENTIAL REQUIREMENTS.—A State shall accept and process any otherwise valid Federal write-in absentee ballot submitted in any manner by an absent uniformed services voter or overseas voter that contains the information required to be submitted with such ballot by the Presidential designee (other than information which the Presidential designee, in consultation with the Election Assistance Commission and the Election Assistance Commission Board of Advisors under section 214(a)(1)–(16), determines, under regulations promulgated by the Presidential designee, is not clearly necessary to prevent fraud in the conduct of elections).''.

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**SA 5609.** Ms. KLOBUCHAR submitted an amendment intended to be proposed by her to the bill S. 3001, to authorize appropriations for fiscal year 2009 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle C of title XXVIII, add the following:

**SECTION 2822. EASTLAKE, OHIO.**

(a) RELEASE OF RESTRICTIONS.—Subject to the requirements of this section, the Administrator of General Services is authorized to release the restrictions contained in the deed that conveyed to the city of Eastlake, Ohio, the parcel of real property described in subsection (b).

(b) PROPERTY DESCRIPTION.—The parcel of real property referred to in subsection (a) is the site of the John F. Kennedy Senior Center located at 33505 Curtis Boulevard, city of Eastlake, Ohio, on 10.873 acres more or less as conveyed by the deed from the General Services Administration dated July 20, 1964, and recorded in the Lake County Ohio Recorder's Office in volume 601 at pages 40–47.

(c) CONSIDERATION.—

(1) IN GENERAL.—The city of Eastlake shall pay to the Administrator $30,000 as consideration for executing the release under subsection (a).

(2) DEPOSIT OF PROCEEDS.—The Administrator shall deposit any funds received under paragraph (1) into the Federal Buildings Fund established under section 592 of title 40, United States Code.

(3) AVAILABILITY OF AMOUNTS DEPOSITED.—To the extent provided in appropriations Acts, amounts deposited into the Federal Buildings Fund under paragraph (2) shall be available for the uses described in section 592(b) of title 40, United States Code.

(d) FILING OF INSTRUMENTS TO EXECUTE RELEASE.—The Administrator shall execute and file in the appropriate office or offices a deed of release, amended deed, or other appropriate instrument effectuating the release under subsection (a).

**SEC. 2823. KOOCHICHING COUNTY, MINNESOTA.**

(a) CONVEYANCE AUTHORIZED.—Subject to the requirements of this section, the Administrator of General Services shall convey to Koochiching County, Minnesota, the parcel of real property described in subsection (b), including any improvements thereon.

(b) PROPERTY DESCRIPTION.—The parcel of real property referred to in subsection (a) is the approximately 5.84 acre parcel located at 1804 3rd Avenue in International Falls, Minnesota, which is the former site of the Koochiching Army Reserve Training Center.

(c) QUITCLAIM DEED.—The conveyance of real property under subsection (a) shall be made through a quit claim deed.

(d) CONSIDERATION.—

(1) IN GENERAL.—Koochiching County shall pay to the Administrator $30,000 as consideration for a conveyance of real property under subsection (a).

(2) DEPOSIT OF PROCEEDS.—The Administrator shall deposit any funds received under paragraph (1) (less expenses of the conveyance) into a special account in the Treasury established under section 572(b)(5)(A) of title 40, United States Code.

(3) AVAILABILITY OF AMOUNTS DEPOSITED.—To the extent provided in appropriations Acts, amounts deposited into a special account under paragraph (2) shall be available to the Secretary of the Army in accordance with section 572(b)(5)(B) of title 40, United States Code.

(e) REVERSION.—The conveyance of real property under subsection (a) shall be made on the condition that the property will revert to the United States, at the option of the United States, without any obligation for repayment of the purchase price for the property, if the property ceases to be held in public ownership or ceases to be used for a public purpose.

(f) OTHER TERMS AND CONDITIONS.—The conveyance of real property under subsection (a) shall be made subject to such other terms and conditions as the Administrator considers appropriate to protect the interests of the United States.

(g) DEADLINE.—The conveyance of real property under subsection (a) shall be made

not later than 90 days after the date of enactment of this Act.

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**SA 5610.** Ms. COLLINS submitted an amendment intended to be proposed by her to the bill S. 3001, to authorize appropriations for fiscal year 2009 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle F of title VIII, add the following:

**SEC. 854. SMALL ARMS PRODUCTION INDUSTRIAL BASE MATTERS.**

(a) AUTHORITY TO MODIFY DEFINITION OF ''SMALL ARMS PRODUCTION INDUSTRIAL BASE''.—Section 2473(c) of title 10, United States Code, is amended by inserting before the period at the end the following: '', and any subsequent modifications to such list of firms pursuant to a review by the Secretary of Defense''.

(b) REVIEW OF SMALL ARMS PRODUCTION INDUSTRIAL BASE.—Not later than September 30, 2009, the Secretary of Defense shall review and determine, based upon manufacturing capability and capacity—

(1) whether any firms included in the small arms production industrial base should be eliminated or modified and whether any additional firms should be included; and

(2) whether any of the small arms listed in section 2473(d) of title 10, United States Code, should be eliminated from the list or modified on the list, and whether any additional small arms should be included in the list.

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**SA 5611.** Ms. COLLINS (for herself and Mr. LIEBERMAN) submitted an amendment intended to be proposed by her to the bill S. 3001, to authorize appropriations for fiscal year 2009 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

Strike section 812 and insert the following:

**SEC. 812. CONTINGENCY CONTRACTING CORPS.**

(a) IN GENERAL.—The Office of Federal Procurement Policy Act (41 U.S.C. 403 et seq.) is amended by adding at the end the following new section:

**''SEC. 44. CONTINGENCY CONTRACTING CORPS.**

''(a) ESTABLISHMENT.—The Administrator shall establish a pilot program that creates a government-wide Contingency Contracting Corps (in this section, referred to as the 'Corps'). The members of the Corps shall be available for deployment in responding to disasters, natural and man-made, and contingency operations both within and outside the continental United States.

''(b) CONCEPT OF OPERATIONS.—Not later than 180 days after the date of the enactment of the National Defense Authorization Act for Fiscal Year 2009, the Office of Federal Procurement Policy, in coordination with the Secretary of Defense, the Secretary of Homeland Security, and the Secretary of State, shall provide the appropriate congressional committees a concept of operations (CONOPS) that provides details on the organizational structure of the Corps, chain of command for on-call and deployed members of the Corps, training and equipment requirements for members of the Corps, and funding requirements related to the operation, training, and equipping of the Corps, and any other matters relating to the efficient establishment and operation of the Corps.

''(c) MEMBERSHIP.—Membership in the Corps shall be voluntary and open to all Federal employees, including uniformed members of the Armed Services, who are currently members of the Federal acquisition workforce.

''(d) EDUCATION AND TRAINING.—The Administrator may establish additional educational and training requirements, and may pay for these additional requirements from funds available in the acquisition workforce training fund.

''(e) SALARY.—The salaries for members of the Corps shall be paid by their parent agencies out of existing appropriations.

''(f) AUTHORITY TO DEPLOY THE CORPS.—The Administrator, or the Administrator's designee, shall have the authority, upon the request of an executive agency, to determine when civilian agency members of the Corps shall be deployed, in consultation with the head of the agency or agencies employing the members to be deployed. With respect to members of the Corps who are also members of the Armed Forces or civilian personnel of the Department of Defense, the Secretary of Defense, or the Secretary's designee, must concur in the Administrator's deployment determinations.

''(g) ANNUAL AND FINAL PILOT PROGRAM REPORTS.—

''(1) ANNUAL REPORT.—

''(A) IN GENERAL.—The Administrator shall provide to the appropriate congressional committees an annual report on the status of the Corps.

''(B) CONTENT.—At a minimum, each report under subparagraph (A) shall include the number of members of the Corps, the fully burdened cost of operating the program, the number of deployments of members of the program, and the performance of members of the program in deployment.

''(2) PILOT PROGRAM REPORT.—

''(A) IN GENERAL.—Not later than four years after the concept of operations required by subsection (b) is provided to the appropriate congressional committees, the Administrator, in coordination with the Secretary of Defense, the Secretary of Homeland Security, and the Secretary of State, shall provide an assessment of the pilot program established by this section and make any recommendations relating to continuation or modification of the Corps.

''(B) CONTENT.—At a minimum, the report required by subparagraph (A) shall include, disaggregated by year and in summary, the number of members of the Corps, training accomplished, equipment provided, the fully burdened cost of operating the program, any operations for which the Corps was deployed, an assessment of the effectiveness of the command and control structure for the Corps, an assessment of the integration of deployed members of the Corps with other agencies (both at the members' parent agencies and while deployed), and the performance of members of the Corps during any deployments.

''(h) EFFECTIVE DATES.—

''(1) IN GENERAL.—Subject to paragraphs (2) and (3), this section shall take effect upon the date of the enactment of the National Defense Authorization Act for Fiscal Year 2009.

''(2) ESTABLISHMENT AND DEPLOYMENT OF CORPS.—The Administrator may not establish or deploy the Corps until the concept of operations required by subsection (b) has been submitted to the appropriate congressional committees.

''(3) PILOT PROGRAM TERMINATION.—

''(A) IN GENERAL.—Subject to subparagraph (B), the authority provided under this section shall terminate five years after submission to the appropriate congressional committees of the concept of operations required by subsection (b).

''(B) NO EFFECT ON ONGOING DEPLOYMENTS.—Expiration of the authority provided under this section shall not affect any deployment of the Corps that occurred prior to the termination of the authority under subparagraph (A), and any such deployment shall continue as authorized by this section prior to its termination.

''(i) APPROPRIATE CONGRESSIONAL COMMITTEES DEFINED.—In this section, the term 'appropriate congressional committees' means—

''(1) the Committee on Armed Services, the Committee on Homeland Security and Governmental Affairs, and the Committee on Foreign Relations of the Senate; and

''(2) the Committee on Armed Services, the Committee on Oversight and Government Reform, and the Committee on Foreign Affairs of the House of Representatives.''.

(b) CLERICAL AMENDMENT.—The table of contents in section 1(b) of such Act is amended by adding at the end the following new item:

''Sec. 44. Contingency Contracting Corps.''.

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**SA 5612.** Mr. KERRY submitted an amendment intended to be proposed to amendment SA 5593 submitted by Mr. KERRY (for himself and Mr. SMITH) and intended to be proposed to the bill S. 3001, to authorize appropriations for fiscal year 2009 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

In lieu of the matter proposed to be inserted, insert the following:

**SEC. ___. SENSE OF THE SENATE.**

It is the sense of the Senate that—

(1) irrespective of the origins of the recent conflict in Georgia, the disproportionate military response by the Russian Federation on the sovereign, internationally recognized territory of Georgia, including the South Ossetian Autonomous Region (referred to in this section as ''South Ossetia'') and the Autonomous Republic of Abkhazia (referred to in this section as ''Abkhazia''), is in violation of international law and commitments of the Russian Federation;

(2) the actions undertaken by the Government of the Russian Federation in Georgia have diminished its standing in the international community and should lead to a review of existing, developing, and proposed multilateral and bilateral arrangements;

(3) the United States continues to have interests in common with the Russian Federation, including combating the proliferation of nuclear weapons and fighting terrorism, and these interests can, over time, serve as the basis for improved long-term relations;

(4) the Government of the Russian Federation should immediately comply with the September 8, 2008, follow-on agreement to the 6-point cease-fire agreement negotiated on August 12, 2008;

(5) the Government of the Russian Federation and the Government of Georgia should—

(A) refrain from the future use of force to resolve the status of Abkhazia and South Ossetia; and

(B) work with the United States, Europe, and other concerned countries and through

the United Nations Security Council, the Organization for Security and Cooperation in Europe, and other international fora to identify a political settlement that addresses the short-term and long-term status of Abkhazia and South Ossetia, in accordance with prior United Nations Security Council resolutions;

(6) the United States should—

(A) provide humanitarian and economic assistance to Georgia;

(B) seek to improve commercial relations with Georgia; and

(C) working in tandem with the international community, continue to support the development of a strong, vibrant, multiparty democracy in Georgia;

(7) the President should consult with Congress on future security cooperation and assistance to Georgia, as appropriate;

(8) the United States continues to support the North Atlantic Treaty Organization declaration reached at the Bucharest Summit on April 3, 2008; and

(9) the United States should work with the European Union, Georgia, and its neighbors to ensure the free flow of energy to Europe and the operation of key communication and trade routes.

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**SA 5613.** Mr. LEVIN submitted an amendment intended to be proposed by him to the bill S. 3001, to authorize appropriations for fiscal year 2009 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

On page 458, between lines 12 and 13, insert the following:

**SEC. 2842. WATER CONSERVATION INVESTMENT PROGRAM.**

(a) ESTABLISHMENT OF ACCOUNT.—There is hereby established on the books of the Treasury an account to be known as the ''Department of Defense Water Conservation Investment Program Account'' (in this section referred to as the ''Account'').

(b) CREDITS TO ACCOUNT.—The Account shall consist of the following:

(1) Amounts appropriated to the Account.

(2) Amounts transferred pursuant to appropriations Acts to the Account from operation and maintenance or military construction accounts of the Department of Defense.

(c) USE OF FUNDS.—To the extent provided in appropriations Acts, funds in the account may be used—

(1) to carry out construction or other projects authorized by section 2866 of title 10, United States Code; or

(2) to comply with the requirements of Executive Order No. 13423 (January 24, 2007) or any successor Executive Order relating to water conservation.

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**SA 5614.** Mr. LEVIN (for Mr. AKAKA) proposed an amendment to the bill S. 3023, to amend title 38, United States Code, to improve and enhance compensation and pension, housing, labor and education, and insurance benefits for veterans, and for other purposes; as follows:

Strike section 311.

Strike section 401 and insert the following:

**SEC. 401. TEMPORARY INCREASE IN NUMBER OF AUTHORIZED JUDGES OF THE UNITED STATES COURT OF APPEALS FOR VETERANS CLAIMS.**

Section 7253 is amended by adding at the end the following new subsection:

''(i) ADDITIONAL TEMPORARY EXPANSION OF COURT.—(1) Subject to paragraph (2), effective as of December 31, 2009, the authorized number of judges of the Court specified in subsection (a) is increased by two.

''(2) Effective as of January 1, 2013, an appointment may not be made to the Court if the appointment would result in there being more judges of the Court than the authorized number of judges of the Court specified in subsection (a).''.

On page 47, between lines 20 and 21, insert the following:

''(15) An assessment of the workload of each judge of the Court, including consideration of the following:

''(A) The time required of each judge for disposition of each type of case.

''(B) The number of cases reviewed by the Court.

''(C) The average workload of other Federal judges''.

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**SA 5615.** Mr. SANDERS submitted an amendment intended to be proposed by him to the bill S. 3001, to authorize appropriations for fiscal year 2009 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

On page 72, after line 20, add the following:

**SEC. 314. EXTENSION AND EXPANSION OF REPORTING REQUIREMENTS REGARDING DEPARTMENT OF DEFENSE ENERGY EFFICIENCY PROGRAMS.**

Section 317(e) of the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107–107; 115 Stat. 1054) is amended to read as follows:

''(e) REPORTING REQUIREMENTS.—

''(1) IN GENERAL.—Not later than January 1, 2002, and each January 1 thereafter through 2013, the Secretary shall submit to the congressional defense a report regarding progress made toward achieving the energy efficiency goals of the Department of Defense, consistent with the provisions of section 303 of Executive Order 13123 (64 Fed. Reg. 30851; 42 U.S.C. 8521 note) and section 11(b) of Executive Order 13423 (72 Fed. Reg. 3919; 42 U.S.C. 4321 note).

''(2) REPORTS SUBMITTED AFTER JANUARY 1, 2008.—Each report required under paragraph (1) that is submitted after the date of the enactment of the National Defense Authorization Act for Fiscal Year 2009 shall include the following:

''(A) A description of steps taken to ensure that facility and installation management goals are consistent with current legislative and other requirements, including applicable requirements under the Energy Independence and Security Act of 2007 (Public Law 110–140).

''(B) A description of steps taken to determine best practices for measuring energy consumption in Department of Defense facilities and installations in order to use the data for better energy management.

''(C) A description of steps taken to comply with requirements of the Energy Independence and Security Act of 2007, including new design and construction requirements for buildings.

''(D) A description of steps taken to comply with section 533 of the National Energy Conservation Policy Act (42 U.S.C. 8259b), regarding the supply by the General Services Administration and the Defense Logistics Agency of Energy Star and Federal Energy Management Program (FEMP) designated products to its Department of Defense customers.

''(E) A description of steps taken to encourage the use of Energy Star and FEMP designated products at military installations in government or contract maintenance activities.

''(F) A description of steps taken to comply with standards for projects built using appropriated funds and established by the Energy Independence and Security Act of 2007 for privatized construction projects, whether residential, administrative, or industrial.''.

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**SA 5616.** Mr. KERRY (for himself and Ms. SNOWE) submitted an amendment intended to be proposed by him to the bill S. 3001, to authorize appropriations for fiscal year 2009 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

On page 311, between lines 13 and 14, insert the following:

**SEC. 1083. COMMERCIALIZATION PILOT PROGRAM.**

Section 9(y) of the Small Business Act (15 U.S.C. 638(y)) is amended—

(1) in paragraph (1)—

(A) by inserting ''or Small Business Technology Transfer Program'' after ''Small Business Innovation Research Program''; and

(B) by adding at the end the following: ''The authority to create and administer a Commercialization Pilot Program under this subsection may not be construed to eliminate or replace any other SBIR program or STTR program that enhances the insertion or transition of SBIR or STTR technologies, including any such program in effect on the date of enactment of the National Defense Authorization Act for Fiscal Year 2006 (Public Law 109–163; 119 Stat. 3136).'';

(2) in paragraph (2), by inserting ''or Small Business Technology Transfer Program'' after ''Small Business Innovation Research Program'';

(3) by redesignating paragraphs (5) and (6) as paragraphs (7) and (8), respectively;

(4) by inserting after paragraph (4) the following:

''(5) INSERTION INCENTIVES.—For any contract with a value of not less than $100,000,000, the Secretary of Defense is authorized to—

''(A) establish goals for transitioning Phase III technologies in subcontracting plans; and

''(B) require a prime contractor on such a contract to report the number and dollar amount of contracts entered into by that prime contractor for Phase III SBIR or STTR projects.

''(6) GOAL FOR SBIR AND STTR TECHNOLOGY INSERTION.—The Secretary of Defense shall—

''(A) set a goal to increase the number of Phase II SBIR contracts and the number of Phase II STTR contracts awarded by that Secretary that lead to technology transition into programs of record or fielded systems;

''(B) use incentives in effect on the date of enactment of the National Defense Authorization Act for Fiscal Year 2009, or create new incentives, to encourage agency program managers and prime contractors to meet the goal under subparagraph (A); and

''(C) include in the annual report to Congress the percentage of contracts described in subparagraph (A) awarded by that Secretary, which shall include information on the ongoing status of projects funded through the Commercialization Pilot Program and efforts to transition these technologies into programs of record or fielded systems.''; and

(5) in paragraph (8), as so redesignated, by striking ''fiscal year 2009'' and inserting ''fiscal year 2014''.

**SA 5617.** Mr. KERRY (for himself and Ms. SNOWE) submitted an amendment intended to be proposed by him to the bill S. 3001, to authorize appropriations for fiscal year 2009 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

On page 311, between lines 13 and 14, insert the following:

**SEC. 1083. SMALL HIGH-TECH FIRMS.**

(a) SBIR.—Section 9(m) of the Small Business Act (15 U.S.C. 638(m)) is amended by striking ''2008'' and inserting ''2010''.

(b) STTR.—Section 9(n)(1)(A) of the Small Business Act (15 U.S.C. 638(n)(1)(A)) is amended by striking ''2009'' and inserting ''2011''.

## NOTICE OF HEARING

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. BINGAMAN. Mr. President, I would like to announce for the information of the Senate and the public that a hearing has been scheduled before the Senate Committee on Energy and Natural Resources. The hearing will be held on Tuesday, September 23, 2008, at 10 a.m., in room SD–366 of the Dirksen Senate Office Building.

The purpose of this hearing is to examine why diesel fuel prices have been so high, and what can be done to address the situation.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record may do so by sending it to the Committee on Energy and Natural Resources, United States Senate, Washington, D.C. 20510–6150, or by e-mail to *Rosemarie Calabro@energy.senate.gov*

For further information, please contact Tara Billingsley at (202) 224–4756 or Rosemarie Calabro at (202) 224–5039.

## AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. LEVIN. 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 Tuesday, September 16, 2008, at 10:30 a.m., in room 253V the Russell Senate Office Building.

In this hearing, the Committee will receive testimony regarding the consumer benefits of broadband service in areas such as education, job opportunities, telemedicine, and access to government resources.

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

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. LEVIN. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate to conduct a hearing on Tuesday, September 16, 2008, at 10 a.m., in room SD–366 of the Dirksen Senate Office Building.

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

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. LEVIN. 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 Tuesday, September 16, 2008, at 10 a.m. in room 406 of the Dirksen Senate Office Building to hold a hearing entitled ''Oversight Hearing on EPA's Children's Health Protection Efforts.''

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

COMMITTEE ON FINANCE

Mr. LEVIN. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session of the Senate on Tuesday, September 16, 2008, at 10 a.m., in 215 Dirksen Senate Office Building, to conduct a hearing entitled ''Aligning Incentives: The Case for Delivery System Reform.''

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

SUBCOMMITTEE ON ENERGY

Mr. LEVIN. Mr. President, I ask unanimous consent that the Subcommittee on Energy be authorized to meet during the session of the Senate to conduct a hearing on Tuesday, September 16, 2008, at 2:30 p.m., in room SD–366 of the Dirksen Senate Office Building.

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

SUBCOMMITTEE ON THE CONSTITUTION

Mr. LEVIN. Mr. President, I ask unanimous consent that the Senate Committee on the Judiciary, Subcommittee on the Constitution be authorized to meet during the session of the Senate, to conduct a hearing entitled ''Restoring the Rule of Law'' on Tuesday, September 16, 2008, at 10:15 a.m., in room SH–216 of the Hart Senate Office Building.

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

## PRIVILEGES OF THE FLOOR

Ms. CANTWELL. Mr. President, I ask unanimous consent that Nora Adkins, a detailee to the Committee on Homeland Security and Governmental Affairs, be granted the privilege of the floor for the remainder of the second session of the 110th Congress.

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

Mr. CHAMBLISS. Mr. President, I ask unanimous consent that Jerry Acosta, a military fellow in my office, be granted the privilege of the floor for the remainder of the Senate's consideration of S. 3001.

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

## LIBRARY OF CONGRESS SOUND RECORDING AND FILM PRESERVATION PROGRAMS REAUTHORIZATION ACT OF 2008

Mr. LEVIN. Mr. President, I ask unanimous consent that the Rules Committee be discharged from further consideration of H.R. 5893 and the Senate proceed to its immediate consideration.

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

The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 5893) to reauthorize the sound recording and film preservation programs of the Library of Congress, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Mr. LEVIN. Mr. President, I ask unanimous consent that the bill be read a third time and passed, the motion to reconsider be laid upon the table, with no intervening action or debate, and that any statements relating to the bill be printed in the RECORD.

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

The bill (H.R. 5893) was ordered to a third reading, was read the third time, and passed.

## DISTRICT OF COLUMBIA AMENDMENT ACT, 2008

Mr. LEVIN. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 900, H.R. 5551.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 5551) to amend title 11, District of Columbia Official Code, to implement the increase provided under the District of Columbia Appropriations Act, 2008, in the amount of funds made available for the compensation of attorneys representing indigent defendants in the District of Columbia courts, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Mr. LEVIN. Mr. President, I ask unanimous consent that the bill be read three times and passed, the motion to reconsider be laid upon the table, with no intervening action or debate, and that any statements relating to the bill be printed in the RECORD.

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

The bill (H.R. 5551) was ordered to a third reading, was read the third time, and passed.

## VETERANS' BENEFITS IMPROVEMENT ACT OF 2008

Mr. LEVIN. Mr. President, I ask unanimous consent that the Senate

proceed to the immediate consideration of Calendar No. 947, S. 3023.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 3023) to amend Title 38, United States Code, to require the Secretary of Veterans Affairs to prescribe regulations relating to the notice to be provided claimants with the Department of Veterans Affairs regarding the substantiation of claims, and for other purposes.

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Veterans' Affairs, with an amendment to strike all after the enacting clause and insert in lieu thereof the following:

S. 3023

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

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

*(a) SHORT TITLE.—This Act may be cited as the ''Veterans' Benefits Improvement Act of 2008''.*

*(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:*



***SEC. 2. REFERENCES TO TITLE 38, UNITED STATES CODE.***

*Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.*

***TITLE I—COMPENSATION AND PENSION MATTERS***

***SEC. 101. REGULATIONS ON CONTENTS OF NOTICE TO BE PROVIDED CLAIMANTS WITH THE DEPARTMENT OF VETERANS AFFAIRS REGARDING THE SUBSTANTIATION OF CLAIMS.***

*(a) IN GENERAL.—Section 5103(a) is amended—*

*(1) by inserting ''(1)'' before ''Upon receipt''; and*

*(2) by adding at the end the following new paragraph:*

*''(2)(A) The Secretary shall prescribe in regulations requirements relating to the contents of notice to be provided under this subsection.*

*''(B) The regulations required by this paragraph—*

*''(i) shall specify different contents for notice depending on whether the claim concerned is an original claim, a claim for reopening a prior decision on a claim, or a claim for increase in benefits;*

*''(ii) may provide additional or alternative contents for notice if appropriate to the benefit or services sought under the claim;*

*''(iii) shall specify for each type of claim for benefits the general information and evidence required to substantiate the basic elements of such type of claim; and*

*''(iv) shall specify the time period limitations required pursuant to subsection (b).''.*

*(b) APPLICABILITY.—The regulations required by paragraph (2) of section 5103(a) of title 38, United States Code (as amended by subsection (a) of this section), shall apply with respect to notices provided to claimants on or after the effective date of such regulations.*

***SEC. 102. JUDICIAL REVIEW OF ADOPTION AND REVISION BY THE SECRETARY OF VETERANS AFFAIRS OF THE SCHEDULE OF RATINGS FOR DISABILITIES OF VETERANS.***

*Section 502 is amended by striking ''(other than an action relating to the adoption or revision of the schedule of ratings for disabilities adopted under section 1155 of this title)''.*

***SEC. 103. AUTOMATIC ANNUAL INCREASE IN RATES OF DISABILITY COMPENSATION AND DEPENDENCY AND INDEMNITY COMPENSATION.***

*(a) INDEXING TO SOCIAL SECURITY INCREASES.—Section 5312 is amended by adding at the end the following new subsection:*

*''(d)(1) Whenever there is an increase in benefit amounts payable under title II of the Social Security Act (42 U.S.C. 401 et seq.) as a result of a determination made under section 215(i) of such Act (42 U.S.C. 415(i)), the Secretary shall, effective on the date of such increase in benefit amounts, increase the dollar amounts in effect for the payment of disability compensation and dependency and indemnity compensation by the Secretary, as specified in paragraph (2), as such amounts were in effect immediately prior to the date of such increase in benefit amounts payable under title II of the Social Security Act, by the same percentage as the percentage by which such benefit amounts are increased.*

*''(2) The dollar amounts to be increased pursuant to paragraph (1) are the following:*

*''(A) COMPENSATION.—Each of the dollar amounts in effect under section 1114 of this title.*

*''(B) ADDITIONAL COMPENSATION FOR DEPENDENTS.—Each of the dollar amounts in effect under section 1115(1) of this title.*

''(C) CLOTHING ALLOWANCE.—The dollar amount in effect under section 1162 of this title.

''(D) NEW DIC RATES.—Each of the dollar amounts in effect under paragraphs (1) and (2) of section 1311(a) of this title.

''(E) OLD DIC RATES.—Each of the dollar amounts in effect under section 1311(a)(3) of this title.

''(F) ADDITIONAL DIC FOR SURVIVING SPOUSES WITH MINOR CHILDREN.—The dollar amount in effect under section 1311(b) of this title.

''(G) ADDITIONAL DIC FOR DISABILITY.—Each of the dollar amounts in effect under sections 1311(c) and 1311(d) of this title.

''(H) DIC FOR DEPENDENT CHILDREN.—Each of the dollar amounts in effect under sections 1313(a) and 1314 of this title.

''(3) Whenever there is an increase under paragraph (1) in amounts in effect for the payment of disability compensation and dependency and indemnity compensation, the Secretary shall publish such amounts, as increased pursuant to such paragraph, in the Federal Register at the same time as the material required by section 215(i)(2)(D) of the Social Security Act (42 U.S.C. 415(i)(2)(D)) is published by reason of a determination under section 215(i) of such Act (42 U.S.C. 415(i)).''.

(b) EFFECTIVE DATE.—Subsection (d) of section 5312 of title 38, United States Code, as added by subsection (a) of this section, shall take effect on December 1, 2009.

**SEC. 104. CONFORMING AMENDMENT RELATING TO NON-DEDUCTIBILITY FROM VETERANS' DISABILITY COMPENSATION OF DISABILITY SEVERANCE PAY FOR DISABILITIES INCURRED BY MEMBERS OF THE ARMED FORCES IN COMBAT ZONES.**

(a) CONFORMING AMENDMENT.—Section 1646 of the Wounded Warrior Act (title XVI of Public Law 110–181; 122 Stat. 472) is amended—

(1) by redesignating subsection (c) as subsection (d); and

(2) by inserting after subsection (b) the following new subsection (c):

''(c) CONFORMING AMENDMENT.—Section 1161 of title 38, United States Code, is amended by striking 'as required by section 1212(c) of title 10' and inserting 'to the extent required by section 1212(d) of title 10'.''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on January 28, 2008 (the date of the enactment of the Wounded Warrior Act), as if included in that Act, to which they relate.

**SEC. 105. REPORT ON PROGRESS OF THE SECRETARY OF VETERANS AFFAIRS IN ADDRESSING CAUSES FOR VARIANCES IN COMPENSATION PAYMENTS FOR VETERANS FOR SERVICE-CONNECTED DISABILITIES.**

(a) REPORT REQUIRED.—Not later than one year after the date of the enactment of this Act, the Secretary of Veterans Affairs shall submit to the Committee on Veterans' Affairs of the Senate and the Committee on Veterans' Affairs of the House of Representatives a report describing the progress of the Secretary in addressing the causes of unacceptable variances in compensation payments for veterans for service-connected disabilities.

(b) ELEMENTS.—The report required under subsection (a) shall include the following:

(1) A description of the efforts of the Veterans Benefits Administration to coordinate with the Veterans Health Administration to improve the quality of examinations of veterans with service-connected disabilities that are performed by the Veterans Health Administration and contract clinicians, including efforts relating to the use of approved templates for such examinations and of reports on such examinations that are based on such templates prepared in an easily-readable format.

(2) An assessment of the current personnel requirements of the Veterans Benefits Administration, including an assessment of the adequacy of the number of personnel assigned to each regional office of the Administration for each type of claim adjudication position.

(3) A description of the differences, if any, in current patterns of submittal rate of claims to the Secretary of Veterans Affairs regarding service-connected disabilities among various populations of veterans, including veterans living in rural and highly rural areas, minority veterans, veterans who served in the National Guard or Reserve, and veterans who are retired from the Armed Forces, and a description and assessment of efforts undertaken to eliminate such differences.

**SEC. 106. REPORT ON STUDIES REGARDING COMPENSATION OF VETERANS FOR LOSS OF EARNING CAPACITY AND QUALITY OF LIFE AND ON LONG-TERM TRANSITION PAYMENTS TO VETERANS UNDERGOING REHABILITATION FOR SERVICE-CONNECTED DISABILITIES.**

(a) FINDING.—Congress finds that the Secretary of Veterans Affairs entered into a contract in February 2008 to conduct two studies as follows:

(1) A study on the appropriate levels of disability compensation to be paid to veterans to compensate for loss of earning capacity and quality of life as a result of service-related disabilities.

(2) A study on the feasability and appropriate level of long-term transition payments to veterans who are separated from the Armed Forces due to disability while such veterans are undergoing rehabilitation for such disability.

(b) REPORT REQUIRED.—

(1) IN GENERAL.—The Secretary of Veterans Affairs shall submit to Congress a report on the studies referred to in subsection (a).

(2) ELEMENTS.—The report required by this subsection shall include the following:

(A) A comprehensive description of the findings and recommendations of the studies.

(B) A description of the actions proposed to be taken by the Secretary in light of such findings and recommendations, including a description of any modification of the schedule for rating disabilities of veterans under section 1155 of title 38, United States Code, proposed to be undertaken by the Secretary and of any other modification of policy or regulations proposed to be undertaken by the Secretary.

(C) For each action proposed to be taken as described in subparagraph (B), a proposed schedule for the taking of such action, including a schedule for the commencement and completion of such action.

(D) A description of any legislative action required in order to authorize, facilitate, or enhance the taking of any action proposed to be taken as described in subparagraph (B).

(3) SUBMITTAL DATE.—The report required by this subsection shall be submitted not later than 210 days after the date of the enactment of this Act.

## TITLE II—HOUSING MATTERS

**SEC. 201. TEMPORARY INCREASE IN MAXIMUM LOAN GUARANTY AMOUNT FOR CERTAIN HOUSING LOANS GUARANTEED BY THE SECRETARY OF VETERANS AFFAIRS.**

Notwithstanding subparagraph (C) of section 3703(a)(1) of title 38, United States Code, for purposes of any loan described in subparagraph (A)(i)(IV) of such section that is originated during the period beginning on the date of the enactment of this Act and ending on December 31, 2011, the term ''maximum guaranty amount'' shall mean an amount equal to 25 percent of the higher of—

(1) the limitation determined under section 305(a)(2) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1454(a)(2)) for the calendar year in which the loan is originated for a single-family residence; or

(2) 125 percent of the area median price for a single-family residence, but in no case to exceed 175 percent of the limitation determined under such section 305(a)(2) for the calendar year in which the loan is originated for a single-family residence.

**SEC. 202. ENHANCEMENT OF REFINANCING OF HOME LOANS BY VETERANS.**

(a) INCLUSION OF REFINANCING LOANS AMONG LOANS SUBJECT TO GUARANTY MAXIMUM.—Section 3703(a)(1)(A)(i)(IV) is amended by inserting ''(5),'' after ''(3),''.

(b) INCREASE IN MAXIMUM PERCENTAGE OF LOAN-TO-VALUE OF REFINANCING LOANS SUBJECT TO GUARANTY.—Section 3710(b)(8) is amended by striking ''90 percent'' and inserting ''95 percent''.

**SEC. 203. FOUR-YEAR EXTENSION OF DEMONSTRATION PROJECTS ON ADJUSTABLE RATE MORTGAGES.**

(a) DEMONSTRATION PROJECT ON ADJUSTABLE RATE MORTGAGES.—Section 3707(a) is amended by striking ''during fiscal years 1993 through 2008'' and inserting ''during the period beginning with the beginning of fiscal year 1993 and ending at the end of fiscal year 2012''.

(b) DEMONSTRATION PROJECT ON HYBRID ADJUSTABLE RATE MORTGAGES.—Section 3707A(a) is amended by striking ''through 2008'' and inserting ''through 2012''.

**SEC. 204. ELIGIBILITY FOR SPECIALLY ADAPTED HOUSING BENEFITS AND ASSISTANCE FOR MEMBERS OF THE ARMED FORCES WITH A SERVICE-CONNECTED DISABILITY.**

The Secretary of Veterans Affairs may provide assistance under chapter 21 of title 38, United States Code, to a member of the Armed Forces serving on active duty who is suffering from a disability described in section 2101 of such title if such disability is the result of an injury incurred or disease contracted in or aggravated in line of duty in the active military, naval, or air service. Such assistance shall be provided to the same extent, and subject to the same limitations, as assistance is provided to veterans under chapter 21 of such title.

**SEC. 205. REPORT ON IMPACT OF MORTGAGE FORECLOSURES ON VETERANS.**

(a) REPORT REQUIRED.—Not later than December 31, 2009, the Secretary of Veterans Affairs shall submit to the Committee on Veterans' Affairs of the Senate and the Committee on Veterans' Affairs of the House of Representatives a report on the effects of mortgage foreclosures on veterans.

(b) ELEMENTS.—The report required by subsection (a) shall include the following:

(1) A general assessment of the income of veterans who have recently separated from the Armed Forces.

(2) An assessment of the effects of any lag or delay in the adjudication by the Secretary of claims of veterans for disability compensation on the capacity of veterans to maintain adequate or suitable housing.

(3) A description of the extent to which the provisions of the Servicemembers Civil Relief Act (50 U.S.C. App. 501 et seq.) protect veterans from mortgage foreclosure, and an assessment of the adequacy of such protections.

(4) A description and assessment of the adequacy of the home loan guaranty programs of the Department of Veterans Affairs, including the authorities of such programs and the assistance provided individuals in the utilization of such programs, in preventing foreclosure for veterans recently separated from the Armed Forces, and for members of the Armed Forces, who have home loans guaranteed by the Secretary.

## TITLE III—LABOR AND EDUCATION MATTERS

### Subtitle A—Labor and Employment Matters

**SEC. 301. WAIVER OF 24-MONTH LIMITATION ON PROGRAM OF INDEPENDENT LIVING SERVICES AND ASSISTANCE FOR VETERANS WITH A SEVERE DISABILITY INCURRED IN THE POST-9/11 GLOBAL OPERATIONS PERIOD.**

Section 3105(d) is amended—

(1) by striking ''Unless the Secretary'' and all that follows through ''the period of a program'' and inserting ''(1) Except as provided in paragraph (2), the period of a program''; and

(2) by adding at the end the following new paragraph:

''(2)(A) The period of a program of independent living services and assistance for a veteran under this chapter may exceed twenty-four months as follows:

''(i) If the Secretary determines that a longer period is necessary and likely to result in a substantial increase in the veteran's level of independence in daily living.

''(ii) If the veteran served on active duty during the Post-9/11 Global Operations period and has a severe disability (as determined by the Secretary for purposes of this clause) incurred or aggravated in such service.

''(B) In this paragraph, the term 'Post-9/11 Global Operations period' means the period of the Persian Gulf War beginning on September 11, 2001, and ending on the date thereafter prescribed by Presidential proclamation or by law.''.

**SEC. 302. REFORM OF USERRA COMPLAINT PROCESS.**

(a) NOTIFICATION OF RIGHTS WITH RESPECT TO COMPLAINTS.—Subsection (c) of section 4322 is amended to read as follows:

''(c)(1) Not later than five days after the Secretary receives a complaint submitted by a person under subsection (a), the Secretary shall notify such person in writing of his or her rights with respect to such complaint under this section and section 4323 or 4324, as the case may be.

''(2) The Secretary shall, upon request, provide technical assistance to a potential claimant with respect to a complaint under this subsection, and when appropriate, to such claimant's employer.''.

(b) NOTIFICATION OF RESULTS OF INVESTIGATION IN WRITING.—Subsection (e) of such section is amended by inserting ''in writing'' after ''submitted the complaint''.

(c) EXPEDITION OF ATTEMPTS TO INVESTIGATE AND RESOLVE COMPLAINTS.—Section 4322 is further amended—

(1) by redesignating subsection (f) as subsection (g); and

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

''(f) Any action required by subsections (d) and (e) with respect to a complaint submitted by a person to the Secretary under subsection (a) shall be completed by the Secretary not later than 90 days after receipt of such complaint.''.

(d) EXPEDITION OF REFERRALS.—

(1) EXPEDITION OF REFERRALS TO ATTORNEY GENERAL.—Section 4323(a)(1) is amended by inserting ''Not later than 60 days after the Secretary receives such a request with respect to a complaint, the Secretary shall refer the complaint to the Attorney General.'' after ''to the Attorney General.''.

(2) EXPEDITION OF REFERRALS TO SPECIAL COUNSEL.—Section 4324(a)(1) is amended by striking ''The Secretary shall refer'' and inserting ''Not later than 60 days after the date the Secretary receives such a request, the Secretary shall refer''.

(e) NOTIFICATION OF REPRESENTATION.—

(1) NOTIFICATION BY ATTORNEY GENERAL.—Section 4323(a) is further amended—

(A) by redesignating paragraph (2) as paragraph (3); and

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

''(2) Not later than 60 days after the date the Attorney General receives a referral under paragraph (1), the Attorney General shall—

''(A) make a decision whether to appear on behalf of, and act as attorney for, the person on whose behalf the complaint is submitted; and

''(B) notify such person in writing of such decision.''.

(2) NOTIFICATION BY SPECIAL COUNSEL.—Subparagraph (B) of section 4324(a)(2) is amended to read as follows:

''(B) Not later than 60 days after the date the Special Counsel receives a referral under paragraph (1), the Special Counsel shall—

''(i) make a decision whether to represent a person before the Merit Systems Protection Board under subparagraph (A); and

''(ii) notify such person in writing of such decision.''.

(f) DEADLINES, STATUTES OF LIMITATIONS, AND RELATED MATTERS.—

(1) IN GENERAL.—Subchapter III of chapter 43 is amended by adding at the end the following new section:

***''§ 4327. Noncompliance of Federal officials with deadlines; inapplicability of statutes of limitations***

''(a) EFFECT OF NONCOMPLIANCE OF FEDERAL OFFICIALS WITH DEADLINES.—(1) The inability of the Secretary, the Attorney General, or the Special Counsel to comply with a deadline applicable to such official under section 4322, 4323, or 4324 of this title—

''(A) shall not affect the authority of the Attorney General or the Special Counsel to represent and file an action or submit a complaint on behalf of a person under section 4323 or 4324 of this title;

''(B) shall not affect the right of a person—

''(i) to commence an action under section 4323 of this title;

''(ii) to submit a complaint under section 4324 of this title; or

''(iii) to obtain any type of assistance or relief authorized by this chapter;

''(C) shall not deprive a Federal court, the Merit Systems Protection Board, or a State court of jurisdiction over an action or complaint filed by the Attorney General, the Special Counsel, or a person under section 4323 or 4324 of this title; and

''(D) shall not constitute a defense, including a statute of limitations period, that any employer (including a State, a private employer, or a Federal executive agency) or the Office of Personnel Management may raise in an action filed by the Attorney General, the Special Counsel, or a person under section 4323 or 4324 of this title.

''(2) If the Secretary, the Attorney General, or the Special Counsel is unable to meet a deadline applicable to such official in section 4322(f), 4323(a)(1), 4323(a)(2), 4324(a)(1), or 4324(a)(2)(B) of this title, and the person agrees to an extension of time, the Secretary, the Attorney General, or the Special Counsel, as the case may be, shall complete the required action within the additional period of time agreed to by the person.

''(b) INAPPLICABILITY OF STATUTES OF LIMITATIONS.—If any person seeks to file a complaint or claim with the Secretary, the Merit Systems Protection Board, or a Federal or State court under this chapter alleging a violation of this chapter, there shall be no limit on the period for filing the complaint or claim.''.

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 43 is amended by inserting after the item relating to section 4326 the following new item:

''4327. Noncompliance of Federal officials with deadlines; inapplicability of statutes of limitations.''.

(3) CONFORMING AMENDMENT.—Section 4323 is further amended—

(A) by striking subsection (i); and

(B) by redesignating subsection (j) as subsection (i).

**SEC. 303. MODIFICATION AND EXPANSION OF REPORTING REQUIREMENTS WITH RESPECT TO ENFORCEMENT OF USERRA.**

(a) DATE OF ANNUAL REPORTS.—Section 4332 is amended by striking ''and no later than February 1, 2005'' and all that follows through the ''such February 1:'' and inserting '', transmit to Congress not later than July 1 each year a report on matters for the fiscal year ending in the year before the year in which such report is transmitted as follows:''.

(b) MODIFICATION OF ANNUAL REPORTS BY SECRETARY.—Such section is further amended—

(1) by striking ''The Secretary shall'' and inserting ''(a) ANNUAL REPORT BY SECRETARY.—The Secretary shall'';

(2) in paragraph (3), by inserting before the period at the end the following: ''and the number of actions initiated by the Office of Special Counsel before the Merit Systems Protection Board pursuant to section 4324 during such fiscal year'';

(3) by redesignating paragraphs (6) and (7) as paragraphs (9) and (10), respectively;

(4) by inserting after paragraph (5) the following new paragraph (8):

''(8) With respect to the cases reported on pursuant to paragraphs (1), (2), (3), (4), and (5) the number of such cases that involve persons with different occupations or persons seeking different occupations, as designated by the Standard Occupational Classification System.''.

(5) by redesignating paragraph (5) as paragraph (7);

(6) by inserting after paragraph (4) the following new paragraphs (5) and (6):

''(5) The number of cases reviewed by the Secretary and the Secretary of Defense through the National Committee for Employer Support of the Guard and Reserve of the Department of Defense that involve the same person.

''(6) With respect to the cases reported on pursuant to paragraphs (1), (2), (3), (4), and (5)—

''(A) the number of such cases that involve a disability-related issue; and

''(B) the number of such cases that involve a person who has a service-connected disability.''; and

(7) in paragraph (7), as redesignated by paragraph (5) of this subsection, by striking ''or (4)'' and inserting ''(4), or (5)''.

(c) ADDITIONAL REPORTS.—Such section is further amended by adding at the end the following new subsection:

''(b) QUARTERLY REPORTS.—

''(1) QUARTERLY REPORT BY SECRETARY.—Not later than 30 days after the end of each fiscal quarter, the Secretary shall submit to Congress, the Secretary of Defense, the Attorney General, and the Special Counsel a report setting forth, for the previous full quarter, the following:

''(A) The number of cases for which the Secretary did not meet the requirements of section 4322(f) of this title.

''(B) The number of cases for which the Secretary received a request for a referral under paragraph (1) of section 4323(a) of this title but did not make such referral within the time period required by such paragraph.

''(2) QUARTERLY REPORT BY ATTORNEY GENERAL.—Not later than 30 days after the end of each fiscal quarter, the Attorney General shall submit to Congress, the Secretary, the Secretary of Defense, and the Special Counsel a report setting forth, for the previous full quarter, the number of cases for which the Attorney General received a referral under paragraph (1) of section 4323(a) of this title but did not meet the requirements of paragraph (2) of section 4323(a) of this title for such referral.

''(3) QUARTERLY REPORT BY SPECIAL COUNSEL.—Not later than 30 days after the end of each fiscal quarter, the Special Counsel shall submit to Congress, the Secretary, the Secretary of Defense, and the Attorney General a report setting forth, for the previous full quarter, the number of cases for which the Special Counsel received a referral under paragraph (1) of section 4324(a) of this title but did not meet the requirements of paragraph (2)(B) of section 4324(a) of this title for such referral.''.

(d) UNIFORM CATEGORIZATION OF DATA.—Such section is further amended by adding at the end the following new subsection:

''(c) UNIFORM CATEGORIZATION OF DATA.—The Secretary shall coordinate with the Secretary of Defense, the Attorney General, and the Special Counsel to ensure that—

''(1) the information in the reports required by this section is categorized in a uniform way; and

''(2) the Secretary, the Secretary of Defense, the Attorney General, and the Special Counsel each have electronic access to the case files reviewed under this chapter by the Secretary, the Secretary of Defense, the Attorney General, and the Special Counsel with due regard for the provisions of section 552a of title 5.''.

(e) COMPTROLLER GENERAL REPORT.—Not later than two years after the date of the enactment of this Act, the Comptroller General of the United States shall submit to Congress a report that contains the following:

(1) An assessment of the reliability of the data contained in the reports submitted under subsection (b) of section 4332 of title 38, United States Code (as amended by subsection (c) of this section), as of the date of such report.

(2) An assessment of the timeliness of the reports submitted under subsection (b) of section 4332 of title 38, United States Code (as so amended), as of such date.

(3) The extent to which the Secretary of Labor is meeting the timeliness requirements of subsections (c)(1) and (f) of section 4322 of title 38, United States Code (as amended by section 302 of this Act), and section 4323(a)(1) of title 38, United States Code (as so amended), as of the date of such report.

(4) The extent to which the Attorney General is meeting the timeliness requirements of section 4323(a)(2) of title 38, United States Code (as amended by section 302 of this Act), as of the date of such report.

(5) The extent to which the Special Counsel is meeting the timeliness requirements of section 4324(a)(2)(B) of title 38, United States Code (as amended by section 302 of this Act), as of the date of such report.

(f) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to each report required under section 4332 of title 38, United States Code (as amended by this section), after the date of the enactment of this Act.

**SEC. 304. TRAINING FOR EXECUTIVE BRANCH HUMAN RESOURCES PERSONNEL ON EMPLOYMENT AND REEMPLOYMENT RIGHTS OF MEMBERS OF THE UNIFORMED SERVICES.**

(a) TRAINING REQUIRED.—Subchapter IV of chapter 43 is amended by adding at the end the following new section:

**''§ 4335. Training for Federal executive agency human resources personnel on employment and reemployment rights and limitations**

''(a) TRAINING REQUIRED.—The head of each Federal executive agency shall provide training for the human resources personnel of such agency on the following:

''(1) The rights, benefits, and obligations of members of the uniformed services under this chapter.

''(2) The application and administration of the requirements of this chapter by such agency with respect to such members.

''(b) CONSULTATION.—The training provided under subsection (a) shall be developed and provided in consultation with the Director of the Office of Personnel Management.

''(c) FREQUENCY.—The training under subsection (a) shall be provided with such frequency as the Director of the Office of Personnel Management shall specify in order to ensure that the human resources personnel of Federal executive agencies are kept fully and currently informed of the matters covered by the training.

''(d) HUMAN RESOURCES PERSONNEL DEFINED.—In this section, the term 'human resources personnel', in the case of a Federal executive agency, means any personnel of the agency who are authorized to recommend, take, or approve any personnel action that is subject to the requirements of this chapter with respect to employees of the agency.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 43 is amended by adding at the end the following new item:

''4335. Training for Federal executive agency human resources personnel on employment and reemployment rights and limitations.''.

**SEC. 305. REPORT ON THE EMPLOYMENT NEEDS OF NATIVE AMERICAN VETERANS LIVING ON TRIBAL LANDS.**

(a) REPORT.—Not later than December 1, 2009, the Secretary of Labor shall, in consultation with the Secretary of Veterans Affairs and the Secretary of the Interior, submit to Congress a report assessing the employment needs of Native American (American Indian, Alaska Native, Native Hawaiian, and Pacific Islander) veterans living on tribal lands, including Indian reservations, Alaska Native villages, and Hawaiian Home Lands. The report shall include—

(1) a review of current and prior government-to-government relationships between tribal organizations and the Veterans' Employment and Training Service of the Department of Labor; and

(2) recommendations for improving employment and job training opportunities for Native American veterans on tribal land, especially through the utilization of resources for veterans.

(b) TRIBAL ORGANIZATION DEFINED.—In this section, the term ''tribal organization'' has the meaning given such term in section 3765(4) of title 38, United States Code.

**SEC. 306. REPORT ON MEASURES TO ASSIST AND ENCOURAGE VETERANS IN COMPLETING VOCATIONAL REHABILITATION.**

(a) STUDY REQUIRED.—The Secretary of Veterans Affairs shall conduct a study on measures to assist and encourage veterans in completing vocational rehabilitation. The study shall include an identification of the following:

(1) The various factors that may prevent or preclude veterans from completing their vocational rehabilitation plans through the Department of Veterans Affairs or otherwise achieving the vocational rehabilitation objectives of such plans.

(2) The actions to be taken by the Secretary to assist and encourage veterans in overcoming the factors identified in paragraph (1) and in otherwise completing their vocational rehabilitation plans or achieving the vocational rehabilitation objectives of such plans.

(b) MATTERS TO BE EXAMINED.—In conducting the study required by subsection (a), the Secretary shall examine the following:

(1) Measures utilized in other disability systems in the United States, and in other countries, to encourage completion of vocational rehabilitation by persons covered by such systems.

(2) Any studies or survey data available to the Secretary that relates to the matters covered by the study.

(3) The extent to which disability compensation may be used as an incentive to encourage veterans to undergo and complete vocational rehabilitation.

(4) The report of the Veterans' Disability Benefits Commission established pursuant to section 1501 of the National Defense Authorization Act of 2004 (38 U.S.C. 1101 note).

(5) The report of the President's Commission on Care for America's Returning Wounded Warriors.

(6) Any other matters that the Secretary considers appropriate for purposes of the study.

(c) CONSIDERATIONS.—In conducting the study required by subsection (a), the Secretary shall consider—

(1) the extent to which bonus payments or other incentives may be used to encourage veterans to complete their vocational rehabilitation plans or otherwise achieve the vocational rehabilitation objectives of such plans; and

(2) such other matters as the Secretary considers appropriate.

(d) CONSULTATION.—In conducting the study required by subsection (a), the Secretary—

(1) shall consult with such veterans and military service organizations, and with such other public and private organizations and individuals, as the Secretary considers appropriate; and

(2) may employ consultants.

(e) REPORT.—Not later than 270 days after the commencement of the study required by subsection (a), the Secretary shall submit to the Committee on Veterans' Affairs of the Senate and the Committee on Veterans' Affairs of the House of Representatives a report on the study. The report shall include the following:

(1) The findings of the Secretary under the study.

(2) Any recommendations that the Secretary considers appropriate for actions to be taken by the Secretary in light of the study, including a proposal for such legislative or administrative action as the Secretary considers appropriate to implement the recommendations.

***Subtitle B—Education Matters***

**SEC. 311. RELIEF FOR STUDENTS WHO DISCONTINUE EDUCATION BECAUSE OF MILITARY SERVICE.**

(a) IN GENERAL.—Title VII of the Servicemembers Civil Relief Act (50 U.S.C. App. 591 et seq.) is amended by adding at the end the following new section:

**''SEC. 707. TUITION, REENROLLMENT, AND STUDENT LOAN RELIEF FOR POSTSECONDARY STUDENTS CALLED TO MILITARY SERVICE.**

''(a) TUITION AND REENROLLMENT.—In the case of a servicemember who because of military service discontinues a program of education at a covered institution of higher education that administers a Federal financial aid program, such institution of higher education shall—

''(1) refund to such servicemember the tuition and fees paid by such servicemember from personal funds, or from a loan, for the portion of the program of education for which such servicemember did not receive academic credit because of such military service; and

''(2) provide such servicemember an opportunity to reenroll in such program of education with the same educational and academic status such servicemember had when such servicemember discontinued such program of education because of such military service.

''(b) INTEREST RATE LIMITATION ON STUDENT LOANS.—

''(1) IN GENERAL.—Except as provided in paragraph (2) of this subsection, a student loan shall be considered an obligation or liability for the purposes of section 207.

''(2) EXCEPTION.—Subsection (c) of section 207 shall not apply to a student loan.

''(c) DEFINITIONS.—In this section:

''(1) The term 'covered institution of higher education' means a 2-year or 4-year institution of higher education as defined in section 102 of the Higher Education Act of 1965 (20 U.S.C. 1002) that participates in a loan program under title IV of that Act (20 U.S.C. 1070 et seq.).

''(2) The term 'Federal financial aid program' means a program providing loans made, insured, or guaranteed under part B, D, or E of title IV of the Higher Education Act of 1965 (20 U.S.C. 1077 et seq., 1087a et seq., 1087aa et seq.).

''(3) The term 'student loan' means any loan, whether Federal, State, or private, to assist an individual to attend an institution of higher education, including a loan made, insured, or guaranteed under part B, D, or E of title IV of the Higher Education Act of 1965 (20 U.S.C. 1077 et seq., 1087a et seq., 1087aa et seq.).''.

(b) CLERICAL AMENDMENT.—The table of contents in section (1)(b) of such Act is amended by adding at the end the following new item:

''Sec. 707. Tuition, reenrollment, and student loan relief for postsecondary students called to military service.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect for periods of military service beginning after the date of the enactment of this section.

***SEC. 312. MODIFICATION OF PERIOD OF ELIGIBILITY FOR SURVIVORS' AND DEPENDENTS' EDUCATIONAL ASSISTANCE OF CERTAIN SPOUSES OF INDIVIDUALS WITH SERVICE-CONNECTED DISABILITIES TOTAL AND PERMANENT IN NATURE.***

*Section 3512(b)(1) is amended—*

*(1) in subparagraph (A), by striking ''subparagraph (B) or (C)'' and inserting ''subparagraph (B), (C), or (D)''; and*

*(2) by adding at the end the following new subparagraph:*

*''(D) Notwithstanding subparagraph (A), an eligible person referred to in that subparagraph who is made eligible under section 3501(a)(1)(D)(i) of this title by reason of a service-connected disability that was determined to be a total disability permanent in nature not later than three years after discharge from service may be afforded educational assistance under this chapter during the 20-year period beginning on the date the disability was so determined to be a total disability permanent in nature, but only if the eligible person remains the spouse of the disabled person throughout the period.''.*

***SEC. 313. REPEAL OF REQUIREMENT FOR REPORT TO THE SECRETARY OF VETERANS AFFAIRS ON PRIOR TRAINING.***

*Section 3676(c)(4) is amended by striking ''and the Secretary''.*

***SEC. 314. MODIFICATION OF WAITING PERIOD BEFORE AFFIRMATION OF ENROLLMENT IN A CORRESPONDENCE COURSE.***

*Section 3686(b) is amended by striking ''ten'' and inserting ''five''.*

***SEC. 315. CHANGE OF PROGRAMS OF EDUCATION AT THE SAME EDUCATIONAL INSTITUTION.***

*Section 3691(d) is amended—*

*(1) by redesignating paragraphs (1), (2), (3), and (4) as subparagraphs (A), (B), (C), and (D), respectively;*

*(2) by inserting ''(1)'' after ''(d)'';*

*(3) in subparagraph (C) of paragraph (1), as redesignated by paragraphs (1) and (2) of this section, by striking ''or'' at the end;*

*(4) in subparagraph (D) of paragraph (1), as so redesignated, by striking the period at the end and inserting ''; or''; and*

*(5) by adding at the end the following:*

*''(E) the change from the program to another program is at the same educational institution and such educational institution determines that the new program is suitable to the aptitudes, interests, and abilities of the veteran or eligible person and certifies to the Secretary the enrollment of the veteran or eligible person in the new program.*

*''(2) A veteran or eligible person undergoing a change from one program of education to another program of education as described in paragraph (1)(E) shall not be required to apply to the Secretary for approval of such change.''.*

***SEC. 316. REPEAL OF CERTIFICATION REQUIREMENT WITH RESPECT TO APPLICATIONS FOR APPROVAL OF SELF-EMPLOYMENT ON-JOB TRAINING.***

*Section 3677(b) is amended by adding at the end the following new paragraph:*

*''(3) The requirement for certification under paragraph (1) shall not apply to training described in section 3452(e)(2) of this title.''.*

***Subtitle C—Other Matters***

***SEC. 321. DESIGNATION OF THE OFFICE OF SMALL BUSINESS PROGRAMS OF THE DEPARTMENT OF VETERANS AFFAIRS.***

*(a) DESIGNATION.—The Office of Small Business Programs of the Department of Veterans Affairs is the office that is established within the Office of the Secretary of Veterans Affairs under section 15(k) of the Small Business Act (15 U.S.C. 644(k)).*

*(b) HEAD.—The Director of Small Business Programs is the head of the Office of Small Business Programs of the Department of Veterans Affairs.*

***TITLE IV—COURT MATTERS***

***SEC. 401. INCREASE IN NUMBER OF ACTIVE JUDGES ON THE UNITED STATES COURT OF APPEALS FOR VETERANS CLAIMS.***

*Section 7253(a) is amended by striking ''seven judges'' and inserting ''nine judges''.*

***SEC. 402. PROTECTION OF PRIVACY AND SECURITY CONCERNS IN COURT RECORDS.***

*Section 7268 is amended by adding at the end the following new subsection:*

*''(c)(1) The Court shall prescribe rules, in accordance with section 7264(a) of this title, to protect privacy and security concerns relating to all filing of documents and the public availability under this subsection of documents retained by the Court or filed electronically with the Court.*

*''(2) The rules prescribed under paragraph (1) shall be consistent to the extent practicable with rules addressing privacy and security issues throughout the Federal courts.*

*''(3) The rules prescribed under paragraph (1) shall take into consideration best practices in Federal and State courts to protect private information or otherwise maintain necessary information security.''.*

***SEC. 403. RECALL OF RETIRED JUDGES OF THE UNITED STATES COURT OF APPEALS FOR VETERANS CLAIMS.***

*(a) REPEAL OF LIMIT ON SERVICE OF RECALLED RETIRED JUDGES WHO VOLUNTARILY SERVE MORE THAN 90 DAYS.—Section 7257(b)(2) is amended by striking ''or for more than a total of 180 days (or the equivalent) during any calendar year''.*

*(b) NEW JUDGES RECALLED AFTER RETIREMENT RECEIVE PAY OF CURRENT JUDGES ONLY DURING PERIOD OF RECALL.—*

*(1) IN GENERAL.—Section 7296(c) is amended by striking paragraph (1) and inserting the following new paragraph:*

*''(1)(A) A judge who is appointed on or after the date of the enactment of the Veterans' Benefits Improvement Act of 2008 and who retires under subsection (b) and elects under subsection (d) to receive retired pay under this subsection shall (except as provided in paragraph (2)) receive retired pay as follows:*

*''(i) In the case of a judge who is a recall-eligible retired judge under section 7257 of this title, the retired pay of the judge shall (subject to section 7257(d)(2) of this title) be the rate of pay applicable to that judge at the time of retirement, as adjusted from time to time under subsection (f)(3).*

*''(ii) In the case of a judge other than a recall-eligible retired judge, the retired pay of the judge shall be the rate of pay applicable to that judge at the time of retirement.*

*''(B) A judge who retired before the date of the enactment of the Veterans' Benefits Improvement Act of 2008 and elected under subsection (d) to receive retired pay under this subsection, or a judge who retires under subsection (b) and elects under subsection (d) to receive retired pay under this subsection, shall (except as provided in paragraph (2)) receive retired pay as follows:*

*''(i) In the case of a judge who is a recall-eligible retired judge under section 7257 of this title or who was a recall-eligible retired judge under that section and was removed from recall status under subsection (b)(4) of that section by reason of disability, the retired pay of the judge shall be the pay of a judge of the court.*

*''(ii) In the case of a judge who at the time of retirement did not provide notice under section 7257 of this title of availability for service in a recalled status, the retired pay of the judge shall be the rate of pay applicable to that judge at the time of retirement.*

*''(iii) In the case of a judge who was a recall-eligible retired judge under section 7257 of this title and was removed from recall status under subsection (b)(3) of that section, the retired pay of the judge shall be the pay of the judge at the time of the removal from recall status.''.*

*(2) COST-OF-LIVING ADJUSTMENT FOR RETIRED PAY OF NEW JUDGES WHO ARE RECALL-ELIGIBLE.—Section 7296(f)(3)(A) is amended by striking ''paragraph (2) of subsection (c)'' and inserting ''paragraph (1)(A)(i) or (2) of subsection (c)''.*

*(3) PAY DURING PERIOD OF RECALL.—Subsection (d) of section 7257 is amended to read as follows:*

*''(d)(1) The pay of a recall-eligible retired judge to whom section 7296(c)(1)(B) of this title applies is the pay specified in that section.*

*''(2) A judge who is recalled under this section who retired under chapter 83 or 84 of title 5 or to whom section 7296(c)(1)(A) of this title applies shall be paid, during the period for which the judge serves in recall status, pay at the rate of pay in effect under section 7253(e) of this title for a judge performing active service, less the amount of the judge's annuity under the applicable provisions of chapter 83 or 84 of title 5 or the judge's annuity under section 7296(c)(1)(A) of this title, whichever is applicable.''.*

*(4) NOTICE.—The last sentence of section 7257(a)(1) is amended to read as follows: ''Such a notice provided by a retired judge to whom section 7296(c)(1)(B) of this title applies is irrevocable.''.*

*(c) LIMITATION ON INVOLUNTARY RECALLS.—Section 7257(b)(3) is amended by adding at the end the following new sentence: ''This paragraph shall not apply to a judge to whom section 7296(c)(1)(A) or 7296(c)(1)(B) of this title applies and who has, in the aggregate, served at least five years of recalled service on the Court under this section.''.*

***SEC. 404. ANNUAL REPORTS ON WORKLOAD OF THE UNITED STATES COURT OF APPEALS FOR VETERANS CLAIMS.***

*(a) IN GENERAL.—Subchapter III of chapter 72 is amended by adding at the end the following new section:*

***''§ 7288. Annual report***

*''(a) IN GENERAL.—The chief judge of the Court shall submit to the appropriate committees of Congress each year a report summarizing the workload of the Court for the fiscal year ending during the preceding year.*

*''(b) ELEMENTS.—Each report under subsection (a) shall include, with respect to the fiscal year covered by such report, the following information:*

*''(1) The number of appeals filed with the Court.*

*''(2) The number of petitions filed with the Court.*

*''(3) The number of applications filed with the Court under section 2412 of title 28.*

*''(4) The total number of dispositions by each of the following:*

*''(A) The Court as a whole.*

*''(B) The Clerk of the Court.*

*''(C) A single judge of the Court.*

*''(D) A multi-judge panel of the Court.*

*''(E) The full Court.*

*''(5) The number of each type of disposition by the Court, including settlement, affirmation, remand, vacation, dismissal, reversal, grant, and denial.*

*''(6) The median time from filing an appeal to disposition by each of the following:*

*''(A) The Court as a whole.*

*''(B) The Clerk of the Court.*

*''(C) A single judge of the Court.*

*''(D) Multiple judges of the Court (including a multi-judge panel of the Court or the full Court).*

*''(7) The median time from filing a petition to disposition by the Court.*

*''(8) The median time from filing an application under section 2412 of title 28 to disposition by the Court.*

*''(9) The median time from the completion of briefing requirements by the parties to disposition by the Court.*

''(10) The number of oral arguments before the Court.

''(11) The number of cases appealed to the United States Court of Appeals for the Federal Circuit.

''(12) The number and status of appeals and petitions pending with the Court and of applications described in paragraph (3) as of the end of such fiscal year.

''(13) The number of cases pending with the Court more than 18 months as of the end of such fiscal year.

''(14) A summary of any service performed for the Court by a recalled retired judge of the Court.

''(c) APPROPRIATE COMMITTEES OF CONGRESS DEFINED.—In this section, the term 'appropriate committees of Congress' means—

''(1) the Committee on Veterans' Affairs of the Senate; and

''(2) the Committee on Veterans' Affairs of the House of Representatives.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 72 is amended by inserting after the item related to section 7287 the following new item:

''7288. Annual report.''.

## TITLE V—INSURANCE MATTERS

### SEC. 501. REPORT ON INCLUSION OF SEVERE AND ACUTE POST TRAUMATIC STRESS DISORDER AMONG CONDITIONS COVERED BY TRAUMATIC INJURY PROTECTION COVERAGE UNDER SERVICEMEMBERS' GROUP LIFE INSURANCE.

(a) REPORT REQUIRED.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Veterans Affairs shall, in consultation with the Secretary of Defense, submit to the appropriate committees of Congress a report setting forth the assessment of the Secretary of Veterans Affairs as to the feasability and advisability of including severe and acute Post Traumatic Stress Disorder (PTSD) among the conditions covered by traumatic injury protection coverage under Servicemembers' Group Life Insurance under section 1980A of title 38, United States Code.

(b) CONSIDERATIONS.—In preparing the assessment required by subsection (a), the Secretary of Veterans Affairs shall consider the following:

(1) The advisability of providing traumatic injury protection coverage under Servicemembers' Group Life Insurance under section 1980A of title 38, United States Code, for Post Traumatic Stress Disorder incurred by a member of the Armed Forces as a direct result of military service in a combat zone that renders the member unable to carry out the daily activities of living after the member is discharged or released from military service.

(2) The unique circumstances of military service, and the unique experiences of members of the Armed Forces who are deployed to a combat zone.

(3) Any financial strain incurred by family members of members of the Armed Forces who suffer severe and acute from Post Traumatic Stress Disorder.

(4) The recovery time, and any particular difficulty of the recovery process, for recovery from severe and acute Post Traumatic Stress Disorder.

(5) Such other matters as the Secretary considers appropriate.

(c) APPROPRIATE COMMITTEES OF CONGRESS DEFINED.—In this section, the term ''appropriate committees of Congress'' means—

(1) the Committee on Armed Services and the Committee on Veterans' Affairs of the Senate; and

(2) the Committee on Armed Services and the Committee on Veterans' Affairs of the House of Representatives.

### SEC. 502. TREATMENT OF STILLBORN CHILDREN AS INSURABLE DEPENDENTS UNDER SERVICEMEMBERS' GROUP LIFE INSURANCE.

(a) TREATMENT.—Section 1965(10) is amended by adding at the end the following new subparagraph:

''(C) The member's stillborn child.''.

(b) CONFORMING AMENDMENT.—Section 101(4)(A) is amended by striking ''section 1965(10)(B)'' in the matter preceding clause (i) and inserting ''subparagraph (B) or (C) of section 1965(10)''.

### SEC. 503. OTHER ENHANCEMENTS OF SERVICEMEMBERS' GROUP LIFE INSURANCE COVERAGE.

(a) EXPANSION OF SERVICEMEMBERS' GROUP LIFE INSURANCE TO INCLUDE CERTAIN MEMBERS OF INDIVIDUAL READY RESERVE.—

(1) IN GENERAL.—Section 1967(a)(1)(C) is amended by striking ''section 1965(5)(B) of this title'' and inserting ''subparagraph (B) or (C) of section 1965(5) of this title''.

(2) CONFORMING AMENDMENTS.—

(A) Section 1967(a)(5)(C) is amended by striking ''section 1965(5)(B) of this title'' and inserting ''subparagraph (B) or (C) of section 1965(5) of this title''; and

(B) Section 1969(g)(1)(B) is amended by striking ''section 1965(5)(B) of this title'' and inserting ''subparagraph (B) or (C) of section 1965(5) of this title''.

(b) REDUCTION IN PERIOD OF DEPENDENTS' COVERAGE AFTER MEMBER SEPARATES.—Section 1968(a)(5)(B)(ii) is amended by striking ''120 days after''.

(c) AUTHORITY TO SET PREMIUMS FOR READY RESERVISTS' SPOUSES.—Section 1969(g)(1)(B) is amended by striking ''(which shall be the same for all such members)''.

(d) FORFEITURE OF VETERANS' GROUP LIFE INSURANCE.—Section 1973 is amended by striking ''under this subchapter'' and inserting ''and Veterans' Group Life Insurance under this subchapter''.

(e) EFFECTIVE AND APPLICABILITY DATES.—

(1) The amendments made by subsection (a) shall take effect on the date of the enactment of this Act.

(2) The amendment made by subsection (b) shall apply with respect to Servicemembers' Group Life Insurance coverage for an insurable dependent of a member, as defined in section 1965(10) of title 38, United States Code (as amended by section 502 of this Act), that begins on or after the date of the enactment of this Act.

(3) The amendment made by subsection (c) shall take effect as if enacted on June 5, 2001, immediately after the enactment of the Veterans' Survivor Benefits Improvements Act of 2001 (Public Law 107–14; 115 Stat. 25).

(4) The amendment made by subsection (d) shall apply with respect to any act of mutiny, treason, spying, or desertion committed on or after the date of the enactment of this Act for which a person is found guilty, or with respect to refusal because of conscientious objections to perform service in, or to wear the uniform of, the Armed Forces on or after the date of the enactment of this Act.

## TITLE VI—OTHER MATTERS

### SEC. 601. AUTHORITY FOR SUSPENSION OR TERMINATION OF CLAIMS OF THE UNITED STATES AGAINST INDIVIDUALS WHO DIED WHILE SERVING ON ACTIVE DUTY IN THE ARMED FORCES.

(a) AUTHORITY.—Section 3711(f) of title 31, United States Code, is amended—

(1) by redesignating paragraph (3) as paragraph (4); and

(2) by inserting after paragraph (2) the following new paragraph (3):

''(3) The Secretary of Veterans Affairs may suspend or terminate an action by the Secretary under subsection (a) to collect a claim against the estate of a person who died while serving on active duty as a member of the Army, Navy, Air Force, Marine Corps, or Coast Guard during a period when the Coast Guard is operating as a service in the Navy if the Secretary determines that, under the circumstances applicable with respect to the deceased person, it is appropriate to do so.''.

(b) EQUITABLE REFUND OF AMOUNTS COLLECTED.—The Secretary of Veterans Affairs may refund to the estate of such person any amount collected by the Secretary (whether before, on, or after the date of the enactment of this Act) from a person who died while serving on active duty as a member of the Armed Forces if the Secretary determines that, under the circumstances applicable with respect to the deceased person, it is appropriate to do so.

### SEC. 602. MEMORIAL HEADSTONES AND MARKERS FOR DECEASED REMARRIED SURVIVING SPOUSES OF VETERANS.

(a) IN GENERAL.—Section 2306(b)(4)(B) is amended by striking ''an unremarried surviving spouse whose subsequent remarriage was terminated by death or divorce'' and inserting ''a surviving spouse who had a subsequent remarriage''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to deaths occurring on or after the date of the enactment of this Act.

### SEC. 603. THREE-YEAR EXTENSION OF AUTHORITY TO CARRY OUT INCOME VERIFICATION.

Section 5317(g) is amended by striking ''September 30, 2008'' and inserting ''September 30, 2011''.

### SEC. 604. THREE-YEAR EXTENSION OF TEMPORARY AUTHORITY FOR THE PERFORMANCE OF MEDICAL DISABILITY EXAMINATIONS BY CONTRACT PHYSICIANS.

Section 704(c) of the Veterans Benefits Act of 2003 (Public Law 108–183; 117 Stat. 2651; 38 U.S.C. 5101 note) is amended by striking ''December 31, 2009'' and inserting ''December 31, 2012''.

Amend the title so as to read: ''A Bill to amend title 38, United States Code, to improve and enhance compensation and pension, housing, labor and education, and insurance benefits for veterans, and for other purposes.''.

Mr. AKAKA. Mr. President, I am pleased that the Senate is acting on S. 3023, the proposed Veterans' Benefits Improvement Act of 2008, as reported by the Committee on Veterans' Affairs. This omnibus veterans' benefits bill will provide much needed support to our Nation's veterans. It contains six titles and 34 provisions that are designed to enhance compensation, housing, labor and education, and insurance benefits for veterans. A full explanation of the bill is available in the committee's report accompanying this legislation, Senate Report 110–449.

I believe that it is important that we view veterans' compensation, and indeed all benefits earned by veterans, as a continuing cost of war. This legislation reflects that perspective.

I will highlight a few of the provisions that I have sponsored in the legislation that is before us today.

This legislation would result in improved notices being sent to veterans concerning their claims for VA benefits. Following a number of decisions by the U.S. Court of Appeals for Veterans Claims and the U.S. Court of Appeals for the Federal Circuit, VA's notification letters to veterans about the status of their claims have become increasingly long, complex, and difficult to understand. These notification letters must be simplified, as veterans,

VA, veterans' advocates, and outside review bodies have all recommended. The notices should focus on the specific type of claim presented. They should use plain and ordinary language rather than bureaucratic jargon. Veterans should not be subjected to confusing information as they seek benefits.

To further improve the VA compensation system, this legislation would end the prohibition on judicial review in the United States Court of Appeals for the Federal Circuit of matters concerning the VA rating schedule. VA issues regulations which are used to assign ratings to veterans for particular disabilities. Under current law, actions concerning the rating schedule are not subject to judicial review unless a constitutional challenge is presented. This legislation would amend the law to treat actions concerning the rating schedule in the same manner as all other actions concerning VA regulations.

I expect VA to comply with all laws passed by Congress in developing and revising the Rating Schedule. However, justice to our Nation's veterans requires that actions concerning the rating schedule be subject to the same judicial scrutiny as is available for the review of actions involving other regulations.

VA's home loan guaranty program may exempt homeowners from having to make a down payment or secure private mortgage insurance, depending on the size of the loan and the amount of the VA guaranty. In general, eligibility is extended to veterans who served on active duty for a minimum of 90 days during wartime, or 181 continuous days during peacetime, and have a discharge other than dishonorable. Members of the Guard and Reserve who have never been called to active duty must serve a total of six years in order to be eligible for the benefit. Certain surviving spouses are also eligible for the housing guaranty.

Public Law 108–454 increased VA's maximum guaranty amount to 25 percent of the Freddie Mac conforming loan limit determined under section 305(a)(2) of the Federal Home Loan Mortgage Corporation Act for a single family residence, as adjusted for the year involved.

The Economic Stimulus Act of 2008, Public Law 110–185, temporarily reset the maximum limits on home loans that the Federal Housing Administration may insure and that Fannie Mae and Freddie Mac may purchase on the secondary market to 125 percent of metropolitan-area median home prices, but did so without reference to the VA home loan program. This had the effect of raising the Fannie Mae, Freddie Mac, and FHA limits to nearly $730,000, in the highest cost areas, while leaving the then-VA limit of $417,000 in place. On July 30, 2008, the Housing and Economic Recovery Act of 2008 was signed into law as Public Law 110–289. That law provided a temporary increase in the maximum guaranty amount for VA loans originated from July 30, 2008 through December 31, 2008 to the same level as provided in the Stimulus Act.

S. 3023, as amended, would extend the temporary increase in the maximum guaranty amount until December 31, 2011. This would enable more veterans to utilize their VA benefit to purchase more costly homes.

The committee bill would also increase the maximum guaranty limit for refinance loans and increase the percentage of an existing loan that VA will refinance under the VA home loan program.

Under current law, the maximum VA home loan guaranty limit for most loans in excess of $144,000 is equal to 25 percent of the Freddie Mac conforming loan limit for a single family home. Public Law 110–289 set this value at approximately $182,437 through the end of 2008. This means lenders offering loans of up to $729,750 will receive up to a 25 percent guaranty, which is typically required to place the loan on the secondary market. Under current law, this does not include regular refinance loans.

Current law limits to $36,000 the guaranty that can be used for a regular refinance loan. This restriction means VA will not guarantee a regular refinance loan over $144,000, essentially precluding a veteran from using the VA program to refinance his or her existing FHA or conventional loan in excess of that amount.

VA is also currently precluded from refinancing a loan if the homeowner does not have at least 10 percent equity in his or her home.

The committee bill would decrease the equity requirement from 10 percent to 5 percent for refinancing from an FHA loan or conventional loan to a VA-guaranteed loan. This would allow more veterans to use their VA benefit to refinance their mortgages. Many veterans do not have 10 percent equity and thus are precluded from refinancing with a VA-guaranteed home loan.

Given the anticipated number of non-VA-guaranteed adjustable rate mortgages that are approaching the reset time when payments are likely to increase, the committee believes that it is prudent to facilitate veterans refinancing to VA-guaranteed loans. In light of today's housing and home loan crises, additional refinancing options will help some veterans bridge financial gaps and allow them to stay in their homes and escape possible foreclosures. These provisions would allow more qualified veterans to refinance their home loans under the VA program.

The omnibus benefits bill would also make crucial updates to the Uniformed Services Employment and Reemployment Rights Act, which protects servicemembers' rights to return to their prior jobs with the same wages and benefits. The provisions in the committee bill are derived from S. 2471, the proposed ''USERRA Enforcement Improvement Act of 2007,'' which Senator KENNEDY and I introduced on December 13, 2007. This legislation would ensure that federal agencies assist servicemembers in a more effective manner, by requiring the Department of Labor to investigate and refer cases in a more timely manner, and by requiring reports from the Department of Labor on their compliance with the deadlines.

Finally, the omnibus benefits bill includes a provision derived from S. 3000, the proposed ''Native American Veterans Access Act of 2008,'' which I introduced on May 8, 2008. This provision is intended to improve VA's ability to understand and respond to the needs of Native American veterans. While Native Americans are more likely to serve in uniform than the general population, many of them find cultural and geographical barriers between themselves and the benefits they earned through service. In addition, those returning to traditional homelands, especially reservation communities, frequently come home to dismal job opportunities and starved economies. The proposed bill would require a study to help us understand the employment needs of Native American veterans and how best to address them.

I thank the committee's ranking member, Senator BURR, for the agreements we have been able to reach. I truly appreciate his cooperation and that of the other members of the committee that have aided our work. I look forward to working with all those on the committee and our colleagues in the House in order to bring this legislation to final action before the end of this month.

I urge colleagues to support this important legislation that would benefit many of this Nation's nearly 24 million veterans and their families.

Mr. BURR. Mr. President, as ranking member of the Senate Committee on Veterans' Affairs, I rise today to express my support for S. 3023, the Veterans' Benefits Improvement Act of 2008. This veterans' benefits omnibus bill will make a wide assortment of improvements to benefits programs for veterans.

I commend Chairman AKAKA for his efforts in crafting this committee bill which reflects the bipartisan work of almost every member of our committee and over 30 other Senators. The result of our work is a bill with 35 provisions touching on education, vocational rehabilitation, employment, housing, compensation, insurance, memorial affairs, and other issues.

Among many other valuable provisions, this bill includes an education benefit that draws its inspiration from a North Carolinian who has become one of the foremost advocates of the needs of severely injured servicemen and women and their families. Sarah Wade, spouse of Ted Wade, an Iraq war veteran who lost his right arm and has battled the effects of severe traumatic brain injury after an explosive detonated under his Humvee in 2004, has

been at her husband's side as a primary caregiver from the beginning. She quit her job to take care of Ted and has doggedly ensured that he receives the highest quality of care. It is likely that her intensive involvement in Ted's ongoing recovery will last for several more years.

Sarah's effort on behalf of her husband leaves little time for herself. Sarah would one day like to go to school. Although VA provides an educational assistance benefit for the spouses of totally disabled veterans and servicemembers, the law requires that the benefit be used within 10 years of the date the veteran receives a total disability rating. For a spouse like Sarah Wade, there is next to no time to take advantage of this benefit within that timeframe. The recovery period for a TBI-afflicted veteran—the very period that Ted needs Sarah the most—simply precludes her from pursuing that option.

In recognition of hundreds of spouses like Sarah, the Veterans' Benefits Improvement Act of 2008 would extend from 10 to 20 years the period within which certain spouses of severely disabled veterans could use their education benefits. That longer window will allow Sarah and others to focus on their first priority, the care of their injured spouses, while giving them some flexibility to pursue their educational goals later on. This provision is simply the right thing to do.

Another provision that I would like to discuss is one that would require human resource specialists in the Federal executive branch to receive training on the Uniformed Services Employment and Reemployment Rights Act or USERRA. This law provides a wide range of employment protections to veterans, future and current members of the Armed Forces, and Guard and Reserve members.

More than 60 years ago Congress recognized that those who serve our country in a time of need should be entitled to resume their civilian jobs when they return home. After Congress passed the first law providing reemployment rights to servicemen and women in 1940, President Roosevelt said these rights were part of ''the special benefits which are due to the members of our armed forces—for they 'have been compelled to make greater economic sacrifice and every other kind of sacrifice than the rest of us.' ''

As we all know, the sacrifices by this generation of servicemen and women are just as profound. In North Carolina alone, we have over 1,000 members of the Guard and Reserves currently deployed, and more than 45,000 members of the Guard and Reserves have deployed since the beginning of the War on Terror. Many left behind not only family and friends, but valued civilian careers.

For them, the modern reemployment law, the Uniformed Services Employment and Reemployment Rights Act, requires that they be given their jobs back when they return home. It also requires that they receive all the benefits and seniority that would have accumulated during their absence.

While every employer should strive to meet or exceed the requirements of USERRA, Congress has stressed that ''the Federal Government should be a model employer'' when it comes to complying with this law. In my view, this means the Federal Government should make sure that not a single returning servicemember is denied proper reinstatement to a Federal job. But unfortunately, this is not happening yet.

At a hearing last year, the Committee on Veterans' Affairs learned that the Federal executive branch continues to violate this law. Worse, these violations are often the result of lack of understanding or knowledge about what the law requires. In fact, the Assistant Secretary for Veterans' Employment and Training of the U.S. Department of Labor testified at our hearing that ''about half' of Federal USERRA cases occur because ''the Federal hiring manager just doesn't understand the law or the . . . regulations that spell out how to implement the law.''

Based on that, it seems clear that we need to do more to prevent these USERRA violations from occurring in the first place. We owe nothing less to those who have served and sacrificed so much for our nation. That is why I have championed this provision to require the head of each Federal executive agency to provide training for their human resources personnel on the rights, benefits, and obligations under USERRA. I am very pleased that this provision was included in the omnibus bill and hope it will soon become law.

The Veterans' Benefits Improvement Act of 2008 also includes a provision that would require VA to provide Congress with a plan for updating its disability rating schedule and a timeline for when changes will be made. This rating schedule—which is the cornerstone of the entire VA claims processing system—was developed in the early 1900s and about 35 percent of it has not been updated since 1945. It is riddled with outdated criteria that do not track with modern medicine. Take for example traumatic arthritis. The rating schedule requires a veteran to show proof of this condition through x-ray evidence. But doctors today would generally diagnose the condition using more modern technology, like an MRI.

Even worse, experts have been telling us the rating schedule is not adequate for rating conditions like post-traumatic stress disorder and traumatic brain injury, which are afflicting so many of our veterans from the War on Terror. Also, experts have told us that the schedule does not adequately compensate young, severely disabled veterans; veterans with mental disabilities; and veterans who are unemployable.

To address this situation, VA has been conducting studies on the appropriate level of disability compensation to account for any loss of earning capacity and any loss of qualify of life caused by service-related disabilities. To make sure these studies don't get put on a shelf to collect dust—as has happened in the past—this bill would require VA to submit to Congress a report outlining the findings and recommendations of those studies, a list of the actions that VA plans to take in response, and a timeline for when VA plans to take those actions. My hope is that this will finally prompt the type of complete update that the VA rating schedule has needed for so long.

These are only a few of the 35 items in this bill. I am confident that each of the bill's provisions will improve the lives of and veterans, even if only in a small way. My hope is that these provisions, and others, will be passed by both Houses before Congress leaves for the year. I ask my colleagues for their support as Chairman AKAKA and I work to make sure that happens.

Mr. LEVIN. Mr. President, I further ask unanimous consent that the Akaka amendment be agreed to; that the committee's substitute amendment, as amended, be agreed to; the bill be read a third time and passed; the title amendment be agreed to; the motion to reconsider be laid upon the table, with no intervening action or debate, and any statements relating to the bill be printed in the RECORD.

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

The amendment (No. 5614) was agreed to, as follows:

(Purpose: To strike section 311, relating to relief for students who discontinue education because of military service, and to provide a temporary increase in the number of authorized judges of the United States Court of Appeals for Veterans Claims)

Strike section 311.

Strike section 401 and insert the following:

**SEC. 401. TEMPORARY INCREASE IN NUMBER OF AUTHORIZED JUDGES OF THE UNITED STATES COURT OF APPEALS FOR VETERANS CLAIMS.**

Section 7253 is amended by adding at the end the following new subsection:

''(i) ADDITIONAL TEMPORARY EXPANSION OF COURT.—(1) Subject to paragraph (2), effective as of December 31, 2009, the authorized number of judges of the Court specified in subsection (a) is increased by two.

''(2) Effective as of January 1, 2013, an appointment may not be made to the Court if the appointment would result in there being more judges of the Court than the authorized number of judges of the Court specified in subsection (a).''.

On page 47, between lines 20 and 21, insert the following:

''(15) An assessment of the workload of each judge of the Court, including consideration of the following:

''(A) The time required of each judge for disposition of each type of case.

''(B) The number of cases reviewed by the Court.

''(C) The average workload of other Federal judges''.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The bill (S. 3023), as amended, was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 3023

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

(a) SHORT TITLE.—This Act may be cited as the ''Veterans' Benefits Improvement Act of 2008''.

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:



**SEC. 2. REFERENCES TO TITLE 38, UNITED STATES CODE.**

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

**TITLE I—COMPENSATION AND PENSION MATTERS**

**SEC. 101. REGULATIONS ON CONTENTS OF NOTICE TO BE PROVIDED CLAIMANTS WITH THE DEPARTMENT OF VETERANS AFFAIRS REGARDING THE SUBSTANTIATION OF CLAIMS.**

(a) IN GENERAL.—Section 5103(a) is amended—

(1) by inserting ''(1)'' before ''Upon receipt''; and

(2) by adding at the end the following new paragraph:

''(2)(A) The Secretary shall prescribe in regulations requirements relating to the contents of notice to be provided under this subsection.

''(B) The regulations required by this paragraph—

''(i) shall specify different contents for notice depending on whether the claim concerned is an original claim, a claim for reopening a prior decision on a claim, or a claim for increase in benefits;

''(ii) may provide additional or alternative contents for notice if appropriate to the benefit or services sought under the claim;

''(iii) shall specify for each type of claim for benefits the general information and evidence required to substantiate the basic elements of such type of claim; and

''(iv) shall specify the time period limitations required pursuant to subsection (b).''.

(b) APPLICABILITY.—The regulations required by paragraph (2) of section 5103(a) of title 38, United States Code (as amended by subsection (a) of this section), shall apply with respect to notices provided to claimants on or after the effective date of such regulations.

**SEC. 102. JUDICIAL REVIEW OF ADOPTION AND REVISION BY THE SECRETARY OF VETERANS AFFAIRS OF THE SCHEDULE OF RATINGS FOR DISABILITIES OF VETERANS.**

Section 502 is amended by striking ''(other than an action relating to the adoption or revision of the schedule of ratings for disabilities adopted under section 1155 of this title)''.

**SEC. 103. AUTOMATIC ANNUAL INCREASE IN RATES OF DISABILITY COMPENSATION AND DEPENDENCY AND INDEMNITY COMPENSATION.**

(a) INDEXING TO SOCIAL SECURITY INCREASES.—Section 5312 is amended by adding at the end the following new subsection:

''(d)(1) Whenever there is an increase in benefit amounts payable under title II of the Social Security Act (42 U.S.C. 401 et seq.) as a result of a determination made under section 215(i) of such Act (42 U.S.C. 415(i)), the Secretary shall, effective on the date of such increase in benefit amounts, increase the dollar amounts in effect for the payment of disability compensation and dependency and indemnity compensation by the Secretary, as specified in paragraph (2), as such amounts were in effect immediately prior to the date of such increase in benefit amounts payable under title II of the Social Security Act, by the same percentage as the percentage by which such benefit amounts are increased.

''(2) The dollar amounts to be increased pursuant to paragraph (1) are the following:

''(A) COMPENSATION.—Each of the dollar amounts in effect under section 1114 of this title.

''(B) ADDITIONAL COMPENSATION FOR DEPENDENTS.—Each of the dollar amounts in effect under section 1115(1) of this title.

''(C) CLOTHING ALLOWANCE.—The dollar amount in effect under section 1162 of this title.

''(D) NEW DIC RATES.—Each of the dollar amounts in effect under paragraphs (1) and (2) of section 1311(a) of this title.

''(E) OLD DIC RATES.—Each of the dollar amounts in effect under section 1311(a)(3) of this title.

''(F) ADDITIONAL DIC FOR SURVIVING SPOUSES WITH MINOR CHILDREN.—The dollar amount in effect under section 1311(b) of this title.

''(G) ADDITIONAL DIC FOR DISABILITY.—Each of the dollar amounts in effect under sections 1311(c) and 1311(d) of this title.

''(H) DIC FOR DEPENDENT CHILDREN.—Each of the dollar amounts in effect under sections 1313(a) and 1314 of this title.

''(3) Whenever there is an increase under paragraph (1) in amounts in effect for the payment of disability compensation and dependency and indemnity compensation, the Secretary shall publish such amounts, as increased pursuant to such paragraph, in the Federal Register at the same time as the material required by section 215(i)(2)(D) of the Social Security Act (42 U.S.C. 415(i)(2)(D)) is published by reason of a determination under section 215(i) of such Act (42 U.S.C. 415(i)).''.

(b) EFFECTIVE DATE.—Subsection (d) of section 5312 of title 38, United States Code, as added by subsection (a) of this section, shall take effect on December 1, 2009.

**SEC. 104. CONFORMING AMENDMENT RELATING TO NON-DEDUCTIBILITY FROM VETERANS' DISABILITY COMPENSATION OF DISABILITY SEVERANCE PAY FOR DISABILITIES INCURRED BY MEMBERS OF THE ARMED FORCES IN COMBAT ZONES.**

(a) CONFORMING AMENDMENT.—Section 1646 of the Wounded Warrior Act (title XVI of Public Law 110–181; 122 Stat. 472) is amended—

(1) by redesignating subsection (c) as subsection (d); and

(2) by inserting after subsection (b) the following new subsection (c):

''(c) CONFORMING AMENDMENT.—Section 1161 of title 38, United States Code, is amended by striking 'as required by section 1212(c) of title 10' and inserting 'to the extent required by section 1212(d) of title 10'.''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on January 28, 2008 (the date of the enactment of the Wounded Warrior Act), as if included in that Act, to which they relate.

**SEC. 105. REPORT ON PROGRESS OF THE SECRETARY OF VETERANS AFFAIRS IN ADDRESSING CAUSES FOR VARIANCES IN COMPENSATION PAYMENTS FOR VETERANS FOR SERVICE-CONNECTED DISABILITIES.**

(a) REPORT REQUIRED.—Not later than one year after the date of the enactment of this Act, the Secretary of Veterans Affairs shall submit to the Committee on Veterans' Affairs of the Senate and the Committee on Veterans' Affairs of the House of Representatives a report describing the progress of the Secretary in addressing the causes of unacceptable variances in compensation payments for veterans for service-connected disabilities.

(b) ELEMENTS.—The report required under subsection (a) shall include the following:

(1) A description of the efforts of the Veterans Benefits Administration to coordinate with the Veterans Health Administration to improve the quality of examinations of veterans with service-connected disabilities that are performed by the Veterans Health Administration and contract clinicians, including efforts relating to the use of approved templates for such examinations and of reports on such examinations that are based on such templates prepared in an easily-readable format.

(2) An assessment of the current personnel requirements of the Veterans Benefits Administration, including an assessment of the adequacy of the number of personnel assigned to each regional office of the Administration for each type of claim adjudication position.

(3) A description of the differences, if any, in current patterns of submittal rate of claims to the Secretary of Veterans Affairs regarding service-connected disabilities among various populations of veterans, including veterans living in rural and highly rural areas, minority veterans, veterans who served in the National Guard or Reserve, and veterans who are retired from the Armed Forces, and a description and assessment of efforts undertaken to eliminate such differences.

**SEC. 106. REPORT ON STUDIES REGARDING COMPENSATION OF VETERANS FOR LOSS OF EARNING CAPACITY AND QUALITY OF LIFE AND ON LONG-TERM TRANSITION PAYMENTS TO VETERANS UNDERGOING REHABILITATION FOR SERVICE-CONNECTED DISABILITIES.**

(a) FINDING.—Congress finds that the Secretary of Veterans Affairs entered into a contract in February 2008 to conduct two studies as follows:

(1) A study on the appropriate levels of disability compensation to be paid to veterans to compensate for loss of earning capacity and quality of life as a result of service-related disabilities.

(2) A study on the feasability and appropriate level of long-term transition payments to veterans who are separated from the Armed Forces due to disability while such veterans are undergoing rehabilitation for such disability.

(b) REPORT REQUIRED.—

(1) IN GENERAL.—The Secretary of Veterans Affairs shall submit to Congress a report on the studies referred to in subsection (a).

(2) ELEMENTS.—The report required by this subsection shall include the following:

(A) A comprehensive description of the findings and recommendations of the studies.

(B) A description of the actions proposed to be taken by the Secretary in light of such findings and recommendations, including a description of any modification of the schedule for rating disabilities of veterans under section 1155 of title 38, United States Code, proposed to be undertaken by the Secretary and of any other modification of policy or regulations proposed to be undertaken by the Secretary.

(C) For each action proposed to be taken as described in subparagraph (B), a proposed schedule for the taking of such action, including a schedule for the commencement and completion of such action.

(D) A description of any legislative action required in order to authorize, facilitate, or enhance the taking of any action proposed to be taken as described in subparagraph (B).

(3) SUBMITTAL DATE.—The report required by this subsection shall be submitted not later than 210 days after the date of the enactment of this Act.

## TITLE II—HOUSING MATTERS

**SEC. 201. TEMPORARY INCREASE IN MAXIMUM LOAN GUARANTY AMOUNT FOR CERTAIN HOUSING LOANS GUARANTEED BY THE SECRETARY OF VETERANS AFFAIRS.**

Notwithstanding subparagraph (C) of section 3703(a)(1) of title 38, United States Code, for purposes of any loan described in subparagraph (A)(i)(IV) of such section that is originated during the period beginning on the date of the enactment of this Act and ending on December 31, 2011, the term ''maximum guaranty amount'' shall mean an amount equal to 25 percent of the higher of—

(1) the limitation determined under section 305(a)(2) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1454(a)(2)) for the calendar year in which the loan is originated for a single-family residence; or

(2) 125 percent of the area median price for a single-family residence, but in no case to exceed 175 percent of the limitation determined under such section 305(a)(2) for the calendar year in which the loan is originated for a single-family residence.

**SEC. 202. ENHANCEMENT OF REFINANCING OF HOME LOANS BY VETERANS.**

(a) INCLUSION OF REFINANCING LOANS AMONG LOANS SUBJECT TO GUARANTY MAXIMUM.—Section 3703(a)(1)(A)(i)(IV) is amended by inserting ''(5),'' after ''(3),''.

(b) INCREASE IN MAXIMUM PERCENTAGE OF LOAN-TO-VALUE OF REFINANCING LOANS SUBJECT TO GUARANTY.—Section 3710(b)(8) is amended by striking ''90 percent'' and inserting ''95 percent''.

**SEC. 203. FOUR-YEAR EXTENSION OF DEMONSTRATION PROJECTS ON ADJUSTABLE RATE MORTGAGES.**

(a) DEMONSTRATION PROJECT ON ADJUSTABLE RATE MORTGAGES.—Section 3707(a) is amended by striking ''during fiscal years 1993 through 2008'' and inserting ''during the period beginning with the beginning of fiscal year 1993 and ending at the end of fiscal year 2012''.

(b) DEMONSTRATION PROJECT ON HYBRID ADJUSTABLE RATE MORTGAGES.—Section 3707A(a) is amended by striking ''through 2008'' and inserting ''through 2012''.

**SEC. 204. ELIGIBILITY FOR SPECIALLY ADAPTED HOUSING BENEFITS AND ASSISTANCE FOR MEMBERS OF THE ARMED FORCES WITH A SERVICE-CONNECTED DISABILITY.**

The Secretary of Veterans Affairs may provide assistance under chapter 21 of title 38, United States Code, to a member of the Armed Forces serving on active duty who is suffering from a disability described in section 2101 of such title if such disability is the result of an injury incurred or disease contracted in or aggravated in line of duty in the active military, naval, or air service. Such assistance shall be provided to the same extent, and subject to the same limitations, as assistance is provided to veterans under chapter 21 of such title.

**SEC. 205. REPORT ON IMPACT OF MORTGAGE FORECLOSURES ON VETERANS.**

(a) REPORT REQUIRED.—Not later than December 31, 2009, the Secretary of Veterans Affairs shall submit to the Committee on Veterans' Affairs of the Senate and the Committee on Veterans' Affairs of the House of Representatives a report on the effects of mortgage foreclosures on veterans.

(b) ELEMENTS.—The report required by subsection (a) shall include the following:

(1) A general assessment of the income of veterans who have recently separated from the Armed Forces.

(2) An assessment of the effects of any lag or delay in the adjudication by the Secretary of claims of veterans for disability compensation on the capacity of veterans to maintain adequate or suitable housing.

(3) A description of the extent to which the provisions of the Servicemembers Civil Relief Act (50 U.S.C. App. 501 et seq.) protect veterans from mortgage foreclosure, and an assessment of the adequacy of such protections.

(4) A description and assessment of the adequacy of the home loan guaranty programs of the Department of Veterans Affairs, including the authorities of such programs and the assistance provided individuals in the utilization of such programs, in preventing foreclosure for veterans recently separated from the Armed Forces, and for members of the Armed Forces, who have home loans guaranteed by the Secretary.

## TITLE III—LABOR AND EDUCATION MATTERS

### Subtitle A—Labor and Employment Matters

**SEC. 301. WAIVER OF 24-MONTH LIMITATION ON PROGRAM OF INDEPENDENT LIVING SERVICES AND ASSISTANCE FOR VETERANS WITH A SEVERE DISABILITY INCURRED IN THE POST-9/11 GLOBAL OPERATIONS PERIOD.**

Section 3105(d) is amended—

(1) by striking ''Unless the Secretary'' and all that follows through ''the period of a program'' and inserting ''(1) Except as provided in paragraph (2), the period of a program''; and

(2) by adding at the end the following new paragraph:

''(2)(A) The period of a program of independent living services and assistance for a veteran under this chapter may exceed twenty-four months as follows:

''(i) If the Secretary determines that a longer period is necessary and likely to result in a substantial increase in the veteran's level of independence in daily living.

''(ii) If the veteran served on active duty during the Post-9/11 Global Operations period and has a severe disability (as determined by the Secretary for purposes of this clause) incurred or aggravated in such service.

''(B) In this paragraph, the term 'Post-9/11 Global Operations period' means the period of the Persian Gulf War beginning on September 11, 2001, and ending on the date thereafter prescribed by Presidential proclamation or by law.''.

**SEC. 302. REFORM OF USERRA COMPLAINT PROCESS.**

(a) NOTIFICATION OF RIGHTS WITH RESPECT TO COMPLAINTS.—Subsection (c) of section 4322 is amended to read as follows:

''(c)(1) Not later than five days after the Secretary receives a complaint submitted by a person under subsection (a), the Secretary shall notify such person in writing of his or her rights with respect to such complaint under this section and section 4323 or 4324, as the case may be.

''(2) The Secretary shall, upon request, provide technical assistance to a potential claimant with respect to a complaint under this subsection, and when appropriate, to such claimant's employer.''.

(b) NOTIFICATION OF RESULTS OF INVESTIGATION IN WRITING.—Subsection (e) of such section is amended by inserting ''in writing'' after ''submitted the complaint''.

(c) EXPEDITION OF ATTEMPTS TO INVESTIGATE AND RESOLVE COMPLAINTS.—Section 4322 is further amended—

(1) by redesignating subsection (f) as subsection (g); and

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

''(f) Any action required by subsections (d) and (e) with respect to a complaint submitted by a person to the Secretary under subsection (a) shall be completed by the Secretary not later than 90 days after receipt of such complaint.''.

(d) EXPEDITION OF REFERRALS.—

(1) EXPEDITION OF REFERRALS TO ATTORNEY GENERAL.—Section 4323(a)(1) is amended by inserting ''Not later than 60 days after the Secretary receives such a request with respect to a complaint, the Secretary shall refer the complaint to the Attorney General.'' after ''to the Attorney General.''.

(2) EXPEDITION OF REFERRALS TO SPECIAL COUNSEL.—Section 4324(a)(1) is amended by striking ''The Secretary shall refer'' and inserting ''Not later than 60 days after the date the Secretary receives such a request, the Secretary shall refer''.

(e) NOTIFICATION OF REPRESENTATION.—

(1) NOTIFICATION BY ATTORNEY GENERAL.—Section 4323(a) is further amended—

(A) by redesignating paragraph (2) as paragraph (3); and

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

''(2) Not later than 60 days after the date the Attorney General receives a referral under paragraph (1), the Attorney General shall—

''(A) make a decision whether to appear on behalf of, and act as attorney for, the person on whose behalf the complaint is submitted; and

''(B) notify such person in writing of such decision.''.

(2) NOTIFICATION BY SPECIAL COUNSEL.—Subparagraph (B) of section 4324(a)(2) is amended to read as follows:

''(B) Not later than 60 days after the date the Special Counsel receives a referral under paragraph (1), the Special Counsel shall—

''(i) make a decision whether to represent a person before the Merit Systems Protection Board under subparagraph (A); and

''(ii) notify such person in writing of such decision.''.

(f) DEADLINES, STATUTES OF LIMITATIONS, AND RELATED MATTERS.—

(1) IN GENERAL.—Subchapter III of chapter 43 is amended by adding at the end the following new section:

**''§ 4327. Noncompliance of Federal officials with deadlines; inapplicability of statutes of limitations**

''(a) EFFECT OF NONCOMPLIANCE OF FEDERAL OFFICIALS WITH DEADLINES.—(1) The inability of the Secretary, the Attorney General, or the Special Counsel to comply with a deadline applicable to such official under section 4322, 4323, or 4324 of this title—

''(A) shall not affect the authority of the Attorney General or the Special Counsel to represent and file an action or submit a complaint on behalf of a person under section 4323 or 4324 of this title;

''(B) shall not affect the right of a person—

''(i) to commence an action under section 4323 of this title;

''(ii) to submit a complaint under section 4324 of this title; or

''(iii) to obtain any type of assistance or relief authorized by this chapter;

''(C) shall not deprive a Federal court, the Merit Systems Protection Board, or a State court of jurisdiction over an action or complaint filed by the Attorney General, the Special Counsel, or a person under section 4323 or 4324 of this title; and

''(D) shall not constitute a defense, including a statute of limitations period, that any employer (including a State, a private employer, or a Federal executive agency) or the Office of Personnel Management may raise in an action filed by the Attorney General, the Special Counsel, or a person under section 4323 or 4324 of this title.

''(2) If the Secretary, the Attorney General, or the Special Counsel is unable to meet a deadline applicable to such official in section 4322(f), 4323(a)(1), 4323(a)(2), 4324(a)(1), or 4324(a)(2)(B) of this title, and the person agrees to an extension of time, the Secretary, the Attorney General, or the Special Counsel, as the case may be, shall complete the required action within the additional period of time agreed to by the person.

''(b) INAPPLICABILITY OF STATUTES OF LIMITATIONS.—If any person seeks to file a complaint or claim with the Secretary, the Merit Systems Protection Board, or a Federal or State court under this chapter alleging a violation of this chapter, there shall be no limit on the period for filing the complaint or claim.''.

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 43 is amended by inserting after the item relating to section 4326 the following new item:

''4327. Noncompliance of Federal officials with deadlines; inapplicability of statutes of limitations.''.

(3) CONFORMING AMENDMENT.—Section 4323 is further amended—

(A) by striking subsection (i); and

(B) by redesignating subsection (j) as subsection (i).

**SEC. 303. MODIFICATION AND EXPANSION OF REPORTING REQUIREMENTS WITH RESPECT TO ENFORCEMENT OF USERRA.**

(a) DATE OF ANNUAL REPORTS.—Section 4332 is amended by striking ''and no later than February 1, 2005'' and all that follows through the ''such February 1:'' and inserting '', transmit to Congress not later than July 1 each year a report on matters for the fiscal year ending in the year before the year in which such report is transmitted as follows:''.

(b) MODIFICATION OF ANNUAL REPORTS BY SECRETARY.—Such section is further amended—

(1) by striking ''The Secretary shall'' and inserting ''(a) ANNUAL REPORT BY SECRETARY.—The Secretary shall'';

(2) in paragraph (3), by inserting before the period at the end the following: ''and the number of actions initiated by the Office of Special Counsel before the Merit Systems Protection Board pursuant to section 4324 during such fiscal year'';

(3) by redesignating paragraphs (6) and (7) as paragraphs (9) and (10), respectively;

(4) by inserting after paragraph (5) the following new paragraph (8):

''(8) With respect to the cases reported on pursuant to paragraphs (1), (2), (3), (4), and (5) the number of such cases that involve persons with different occupations or persons seeking different occupations, as designated by the Standard Occupational Classification System.''.

(5) by redesignating paragraph (5) as paragraph (7);

(6) by inserting after paragraph (4) the following new paragraphs (5) and (6):

''(5) The number of cases reviewed by the Secretary and the Secretary of Defense through the National Committee for Employer Support of the Guard and Reserve of the Department of Defense that involve the same person.

''(6) With respect to the cases reported on pursuant to paragraphs (1), (2), (3), (4), and (5)—

''(A) the number of such cases that involve a disability-related issue; and

''(B) the number of such cases that involve a person who has a service-connected disability.''; and

(7) in paragraph (7), as redesignated by paragraph (5) of this subsection, by striking ''or (4)'' and inserting ''(4), or (5)''.

(c) ADDITIONAL REPORTS.—Such section is further amended by adding at the end the following new subsection:

''(b) QUARTERLY REPORTS.—

''(1) QUARTERLY REPORT BY SECRETARY.—Not later than 30 days after the end of each fiscal quarter, the Secretary shall submit to Congress, the Secretary of Defense, the Attorney General, and the Special Counsel a report setting forth, for the previous full quarter, the following:

''(A) The number of cases for which the Secretary did not meet the requirements of section 4322(f) of this title.

''(B) The number of cases for which the Secretary received a request for a referral under paragraph (1) of section 4323(a) of this title but did not make such referral within the time period required by such paragraph.

''(2) QUARTERLY REPORT BY ATTORNEY GENERAL.—Not later than 30 days after the end of each fiscal quarter, the Attorney General shall submit to Congress, the Secretary, the Secretary of Defense, and the Special Counsel a report setting forth, for the previous full quarter, the number of cases for which

the Attorney General received a referral under paragraph (1) of section 4323(a) of this title but did not meet the requirements of paragraph (2) of section 4323(a) of this title for such referral.

''(3) QUARTERLY REPORT BY SPECIAL COUNSEL.—Not later than 30 days after the end of each fiscal quarter, the Special Counsel shall submit to Congress, the Secretary, the Secretary of Defense, and the Attorney General a report setting forth, for the previous full quarter, the number of cases for which the Special Counsel received a referral under paragraph (1) of section 4324(a) of this title but did not meet the requirements of paragraph (2)(B) of section 4324(a) of this title for such referral.''.

(d) UNIFORM CATEGORIZATION OF DATA.—Such section is further amended by adding at the end the following new subsection:

''(c) UNIFORM CATEGORIZATION OF DATA.—The Secretary shall coordinate with the Secretary of Defense, the Attorney General, and the Special Counsel to ensure that—

''(1) the information in the reports required by this section is categorized in a uniform way; and

''(2) the Secretary, the Secretary of Defense, the Attorney General, and the Special Counsel each have electronic access to the case files reviewed under this chapter by the Secretary, the Secretary of Defense, the Attorney General, and the Special Counsel with due regard for the provisions of section 552a of title 5.''.

(e) COMPTROLLER GENERAL REPORT.—Not later than two years after the date of the enactment of this Act, the Comptroller General of the United States shall submit to Congress a report that contains the following:

(1) An assessment of the reliability of the data contained in the reports submitted under subsection (b) of section 4332 of title 38, United States Code (as amended by subsection (c) of this section), as of the date of such report.

(2) An assessment of the timeliness of the reports submitted under subsection (b) of section 4332 of title 38, United States Code (as so amended), as of such date.

(3) The extent to which the Secretary of Labor is meeting the timeliness requirements of subsections (c)(1) and (f) of section 4322 of title 38, United States Code (as amended by section 302 of this Act), and section 4323(a)(1) of title 38, United States Code (as so amended), as of the date of such report.

(4) The extent to which the Attorney General is meeting the timeliness requirements of section 4323(a)(2) of title 38, United States Code (as amended by section 302 of this Act), as of the date of such report.

(5) The extent to which the Special Counsel is meeting the timeliness requirements of section 4324(a)(2)(B) of title 38, United States Code (as amended by section 302 of this Act), as of the date of such report.

(f) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to each report required under section 4332 of title 38, United States Code (as amended by this section), after the date of the enactment of this Act.

**SEC. 304. TRAINING FOR EXECUTIVE BRANCH HUMAN RESOURCES PERSONNEL ON EMPLOYMENT AND REEMPLOYMENT RIGHTS OF MEMBERS OF THE UNIFORMED SERVICES.**

(a) TRAINING REQUIRED.—Subchapter IV of chapter 43 is amended by adding at the end the following new section:

**''§ 4335. Training for Federal executive agency human resources personnel on employment and reemployment rights and limitations**

''(a) TRAINING REQUIRED.—The head of each Federal executive agency shall provide training for the human resources personnel of such agency on the following:

''(1) The rights, benefits, and obligations of members of the uniformed services under this chapter.

''(2) The application and administration of the requirements of this chapter by such agency with respect to such members.

''(b) CONSULTATION.—The training provided under subsection (a) shall be developed and provided in consultation with the Director of the Office of Personnel Management.

''(c) FREQUENCY.—The training under subsection (a) shall be provided with such frequency as the Director of the Office of Personnel Management shall specify in order to ensure that the human resources personnel of Federal executive agencies are kept fully and currently informed of the matters covered by the training.

''(d) HUMAN RESOURCES PERSONNEL DEFINED.—In this section, the term 'human resources personnel', in the case of a Federal executive agency, means any personnel of the agency who are authorized to recommend, take, or approve any personnel action that is subject to the requirements of this chapter with respect to employees of the agency.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 43 is amended by adding at the end the following new item:

''4335. Training for Federal executive agency human resources personnel on employment and reemployment rights and limitations.''.

**SEC. 305. REPORT ON THE EMPLOYMENT NEEDS OF NATIVE AMERICAN VETERANS LIVING ON TRIBAL LANDS.**

(a) REPORT.—Not later than December 1, 2009, the Secretary of Labor shall, in consultation with the Secretary of Veterans Affairs and the Secretary of the Interior, submit to Congress a report assessing the employment needs of Native American (American Indian, Alaska Native, Native Hawaiian, and Pacific Islander) veterans living on tribal lands, including Indian reservations, Alaska Native villages, and Hawaiian Home Lands. The report shall include—

(1) a review of current and prior government-to-government relationships between tribal organizations and the Veterans' Employment and Training Service of the Department of Labor; and

(2) recommendations for improving employment and job training opportunities for Native American veterans on tribal land, especially through the utilization of resources for veterans.

(b) TRIBAL ORGANIZATION DEFINED.—In this section, the term ''tribal organization'' has the meaning given such term in section 3765(4) of title 38, United States Code.

**SEC. 306. REPORT ON MEASURES TO ASSIST AND ENCOURAGE VETERANS IN COMPLETING VOCATIONAL REHABILITATION.**

(a) STUDY REQUIRED.—The Secretary of Veterans Affairs shall conduct a study on measures to assist and encourage veterans in completing vocational rehabilitation. The study shall include an identification of the following:

(1) The various factors that may prevent or preclude veterans from completing their vocational rehabilitation plans through the Department of Veterans Affairs or otherwise achieving the vocational rehabilitation objectives of such plans.

(2) The actions to be taken by the Secretary to assist and encourage veterans in overcoming the factors identified in paragraph (1) and in otherwise completing their vocational rehabilitation plans or achieving the vocational rehabilitation objectives of such plans.

(b) MATTERS TO BE EXAMINED.—In conducting the study required by subsection (a), the Secretary shall examine the following:

(1) Measures utilized in other disability systems in the United States, and in other countries, to encourage completion of vocational rehabilitation by persons covered by such systems.

(2) Any studies or survey data available to the Secretary that relates to the matters covered by the study.

(3) The extent to which disability compensation may be used as an incentive to encourage veterans to undergo and complete vocational rehabilitation.

(4) The report of the Veterans' Disability Benefits Commission established pursuant to section 1501 of the National Defense Authorization Act of 2004 (38 U.S.C. 1101 note).

(5) The report of the President's Commission on Care for America's Returning Wounded Warriors.

(6) Any other matters that the Secretary considers appropriate for purposes of the study.

(c) CONSIDERATIONS.—In conducting the study required by subsection (a), the Secretary shall consider—

(1) the extent to which bonus payments or other incentives may be used to encourage veterans to complete their vocational rehabilitation plans or otherwise achieve the vocational rehabilitation objectives of such plans; and

(2) such other matters as the Secretary considers appropriate.

(d) CONSULTATION.—In conducting the study required by subsection (a), the Secretary—

(1) shall consult with such veterans and military service organizations, and with such other public and private organizations and individuals, as the Secretary considers appropriate; and

(2) may employ consultants.

(e) REPORT.—Not later than 270 days after the commencement of the study required by subsection (a), the Secretary shall submit to the Committee on Veterans' Affairs of the Senate and the Committee on Veterans' Affairs of the House of Representatives a report on the study. The report shall include the following:

(1) The findings of the Secretary under the study.

(2) Any recommendations that the Secretary considers appropriate for actions to be taken by the Secretary in light of the study, including a proposal for such legislative or administrative action as the Secretary considers appropriate to implement the recommendations.

**Subtitle B—Education Matters**

**SEC. 311. MODIFICATION OF PERIOD OF ELIGIBILITY FOR SURVIVORS' AND DEPENDENTS' EDUCATIONAL ASSISTANCE OF CERTAIN SPOUSES OF INDIVIDUALS WITH SERVICE-CONNECTED DISABILITIES TOTAL AND PERMANENT IN NATURE.**

Section 3512(b)(1) is amended—

(1) in subparagraph (A), by striking ''subparagraph (B) or (C)'' and inserting ''subparagraph (B), (C), or (D)''; and

(2) by adding at the end the following new subparagraph:

''(D) Notwithstanding subparagraph (A), an eligible person referred to in that subparagraph who is made eligible under section 3501(a)(1)(D)(i) of this title by reason of a service-connected disability that was determined to be a total disability permanent in nature not later than three years after discharge from service may be afforded educational assistance under this chapter during the 20-year period beginning on the date the disability was so determined to be a total disability permanent in nature, but only if

the eligible person remains the spouse of the disabled person throughout the period.''.

**SEC. 312. REPEAL OF REQUIREMENT FOR REPORT TO THE SECRETARY OF VETERANS AFFAIRS ON PRIOR TRAINING.**

Section 3676(c)(4) is amended by striking ''and the Secretary''.

**SEC. 313. MODIFICATION OF WAITING PERIOD BEFORE AFFIRMATION OF ENROLLMENT IN A CORRESPONDENCE COURSE.**

Section 3686(b) is amended by striking ''ten'' and inserting ''five''.

**SEC. 314. CHANGE OF PROGRAMS OF EDUCATION AT THE SAME EDUCATIONAL INSTITUTION.**

Section 3691(d) is amended—

(1) by redesignating paragraphs (1), (2), (3), and (4) as subparagraphs (A), (B), (C), and (D), respectively;

(2) by inserting ''(1)'' after ''(d)'';

(3) in subparagraph (C) of paragraph (1), as redesignated by paragraphs (1) and (2) of this section, by striking ''or'' at the end;

(4) in subparagraph (D) of paragraph (1), as so redesignated, by striking the period at the end and inserting ''; or''; and

(5) by adding at the end the following:

''(E) the change from the program to another program is at the same educational institution and such educational institution determines that the new program is suitable to the aptitudes, interests, and abilities of the veteran or eligible person and certifies to the Secretary the enrollment of the veteran or eligible person in the new program.

''(2) A veteran or eligible person undergoing a change from one program of education to another program of education as described in paragraph (1)(E) shall not be required to apply to the Secretary for approval of such change.''.

**SEC. 315. REPEAL OF CERTIFICATION REQUIREMENT WITH RESPECT TO APPLICATIONS FOR APPROVAL OF SELF-EMPLOYMENT ON-JOB TRAINING.**

Section 3677(b) is amended by adding at the end the following new paragraph:

''(3) The requirement for certification under paragraph (1) shall not apply to training described in section 3452(e)(2) of this title.''.

### Subtitle C—Other Matters

**SEC. 321. DESIGNATION OF THE OFFICE OF SMALL BUSINESS PROGRAMS OF THE DEPARTMENT OF VETERANS AFFAIRS.**

(a) DESIGNATION.—The Office of Small Business Programs of the Department of Veterans Affairs is the office that is established within the Office of the Secretary of Veterans Affairs under section 15(k) of the Small Business Act (15 U.S.C. 644(k)).

(b) HEAD.—The Director of Small Business Programs is the head of the Office of Small Business Programs of the Department of Veterans Affairs.

## TITLE IV—COURT MATTERS

**SEC. 401. TEMPORARY INCREASE IN NUMBER OF AUTHORIZED JUDGES OF THE UNITED STATES COURT OF APPEALS FOR VETERANS CLAIMS.**

Section 7253 is amended by adding at the end the following new subsection:

''(i) ADDITIONAL TEMPORARY EXPANSION OF COURT.—(1) Subject to paragraph (2), effective as of December 31, 2009, the authorized number of judges of the Court specified in subsection (a) is increased by two.

''(2) Effective as of January 1, 2013, an appointment may not be made to the Court if the appointment would result in there being more judges of the Court than the authorized number of judges of the Court specified in subsection (a).''.

**SEC. 402. PROTECTION OF PRIVACY AND SECURITY CONCERNS IN COURT RECORDS.**

Section 7268 is amended by adding at the end the following new subsection:

''(c)(1) The Court shall prescribe rules, in accordance with section 7264(a) of this title, to protect privacy and security concerns relating to all filing of documents and the public availability under this subsection of documents retained by the Court or filed electronically with the Court.

''(2) The rules prescribed under paragraph (1) shall be consistent to the extent practicable with rules addressing privacy and security issues throughout the Federal courts.

''(3) The rules prescribed under paragraph (1) shall take into consideration best practices in Federal and State courts to protect private information or otherwise maintain necessary information security.''.

**SEC. 403. RECALL OF RETIRED JUDGES OF THE UNITED STATES COURT OF APPEALS FOR VETERANS CLAIMS.**

(a) REPEAL OF LIMIT ON SERVICE OF RECALLED RETIRED JUDGES WHO VOLUNTARILY SERVE MORE THAN 90 DAYS.—Section 7257(b)(2) is amended by striking ''or for more than a total of 180 days (or the equivalent) during any calendar year''.

(b) NEW JUDGES RECALLED AFTER RETIREMENT RECEIVE PAY OF CURRENT JUDGES ONLY DURING PERIOD OF RECALL.—

(1) IN GENERAL.—Section 7296(c) is amended by striking paragraph (1) and inserting the following new paragraph:

''(1)(A) A judge who is appointed on or after the date of the enactment of the Veterans' Benefits Improvement Act of 2008 and who retires under subsection (b) and elects under subsection (d) to receive retired pay under this subsection shall (except as provided in paragraph (2)) receive retired pay as follows:

''(i) In the case of a judge who is a recall-eligible retired judge under section 7257 of this title, the retired pay of the judge shall (subject to section 7257(d)(2) of this title) be the rate of pay applicable to that judge at the time of retirement, as adjusted from time to time under subsection (f)(3).

''(ii) In the case of a judge other than a recall-eligible retired judge, the retired pay of the judge shall be the rate of pay applicable to that judge at the time of retirement.

''(B) A judge who retired before the date of the enactment of the Veterans' Benefits Improvement Act of 2008 and elected under subsection (d) to receive retired pay under this subsection, or a judge who retires under subsection (b) and elects under subsection (d) to receive retired pay under this subsection, shall (except as provided in paragraph (2)) receive retired pay as follows:

''(i) In the case of a judge who is a recall-eligible retired judge under section 7257 of this title or who was a recall-eligible retired judge under that section and was removed from recall status under subsection (b)(4) of that section by reason of disability, the retired pay of the judge shall be the pay of a judge of the court.

''(ii) In the case of a judge who at the time of retirement did not provide notice under section 7257 of this title of availability for service in a recalled status, the retired pay of the judge shall be the rate of pay applicable to that judge at the time of retirement.

''(iii) In the case of a judge who was a recall-eligible retired judge under section 7257 of this title and was removed from recall status under subsection (b)(3) of that section, the retired pay of the judge shall be the pay of the judge at the time of the removal from recall status.''.

(2) COST-OF-LIVING ADJUSTMENT FOR RETIRED PAY OF NEW JUDGES WHO ARE RECALL-ELIGIBLE.—Section 7296(f)(3)(A) is amended by striking ''paragraph (2) of subsection (c)'' and inserting ''paragraph (1)(A)(i) or (2) of subsection (c)''.

(3) PAY DURING PERIOD OF RECALL.—Subsection (d) of section 7257 is amended to read as follows:

''(d)(1) The pay of a recall-eligible retired judge to whom section 7296(c)(1)(B) of this title applies is the pay specified in that section.

''(2) A judge who is recalled under this section who retired under chapter 83 or 84 of title 5 or to whom section 7296(c)(1)(A) of this title applies shall be paid, during the period for which the judge serves in recall status, pay at the rate of pay in effect under section 7253(e) of this title for a judge performing active service, less the amount of the judge's annuity under the applicable provisions of chapter 83 or 84 of title 5 or the judge's annuity under section 7296(c)(1)(A) of this title, whichever is applicable.''.

(4) NOTICE.—The last sentence of section 7257(a)(1) is amended to read as follows: ''Such a notice provided by a retired judge to whom section 7296(c)(1)(B) of this title applies is irrevocable.''.

(c) LIMITATION ON INVOLUNTARY RECALLS.—Section 7257(b)(3) is amended by adding at the end the following new sentence: ''This paragraph shall not apply to a judge to whom section 7296(c)(1)(A) or 7296(c)(1)(B) of this title applies and who has, in the aggregate, served at least five years of recalled service on the Court under this section.''.

**SEC. 404. ANNUAL REPORTS ON WORKLOAD OF THE UNITED STATES COURT OF APPEALS FOR VETERANS CLAIMS.**

(a) IN GENERAL.—Subchapter III of chapter 72 is amended by adding at the end the following new section:

**''§7288. Annual report**

''(a) IN GENERAL.—The chief judge of the Court shall submit to the appropriate committees of Congress each year a report summarizing the workload of the Court for the fiscal year ending during the preceding year.

''(b) ELEMENTS.—Each report under subsection (a) shall include, with respect to the fiscal year covered by such report, the following information:

''(1) The number of appeals filed with the Court.

''(2) The number of petitions filed with the Court.

''(3) The number of applications filed with the Court under section 2412 of title 28.

''(4) The total number of dispositions by each of the following:

''(A) The Court as a whole.

''(B) The Clerk of the Court.

''(C) A single judge of the Court.

''(D) A multi-judge panel of the Court.

''(E) The full Court.

''(5) The number of each type of disposition by the Court, including settlement, affirmation, remand, vacation, dismissal, reversal, grant, and denial.

''(6) The median time from filing an appeal to disposition by each of the following:

''(A) The Court as a whole.

''(B) The Clerk of the Court.

''(C) A single judge of the Court.

''(D) Multiple judges of the Court (including a multi-judge panel of the Court or the full Court).

''(7) The median time from filing a petition to disposition by the Court.

''(8) The median time from filing an application under section 2412 of title 28 to disposition by the Court.

''(9) The median time from the completion of briefing requirements by the parties to disposition by the Court.

''(10) The number of oral arguments before the Court.

''(11) The number of cases appealed to the United States Court of Appeals for the Federal Circuit.

''(12) The number and status of appeals and petitions pending with the Court and of applications described in paragraph (3) as of the end of such fiscal year.

''(13) The number of cases pending with the Court more than 18 months as of the end of such fiscal year.

''(14) A summary of any service performed for the Court by a recalled retired judge of the Court.

''(15) An assessment of the workload of each judge of the Court, including consideration of the following:

''(A) The time required of each judge for disposition of each type of case.

''(B) The number of cases reviewed by the Court.

''(C) The average workload of other Federal judges.

''(c) APPROPRIATE COMMITTEES OF CONGRESS DEFINED.—In this section, the term 'appropriate committees of Congress' means—

''(1) the Committee on Veterans' Affairs of the Senate; and

''(2) the Committee on Veterans' Affairs of the House of Representatives.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 72 is amended by inserting after the item related to section 7287 the following new item:

''7288. Annual report.''.

## TITLE V—INSURANCE MATTERS

**SEC. 501. REPORT ON INCLUSION OF SEVERE AND ACUTE POST TRAUMATIC STRESS DISORDER AMONG CONDITIONS COVERED BY TRAUMATIC INJURY PROTECTION COVERAGE UNDER SERVICEMEMBERS' GROUP LIFE INSURANCE.**

(a) REPORT REQUIRED.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Veterans Affairs shall, in consultation with the Secretary of Defense, submit to the appropriate committees of Congress a report setting forth the assessment of the Secretary of Veterans Affairs as to the feasability and advisability of including severe and acute Post Traumatic Stress Disorder (PTSD) among the conditions covered by traumatic injury protection coverage under Servicemembers' Group Life Insurance under section 1980A of title 38, United States Code.

(b) CONSIDERATIONS.—In preparing the assessment required by subsection (a), the Secretary of Veterans Affairs shall consider the following:

(1) The advisability of providing traumatic injury protection coverage under Servicemembers' Group Life Insurance under section 1980A of title 38, United States Code, for Post Traumatic Stress Disorder incurred by a member of the Armed Forces as a direct result of military service in a combat zone that renders the member unable to carry out the daily activities of living after the member is discharged or released from military service.

(2) The unique circumstances of military service, and the unique experiences of members of the Armed Forces who are deployed to a combat zone.

(3) Any financial strain incurred by family members of members of the Armed Forces who suffer severe and acute from Post Traumatic Stress Disorder.

(4) The recovery time, and any particular difficulty of the recovery process, for recovery from severe and acute Post Traumatic Stress Disorder.

(5) Such other matters as the Secretary considers appropriate.

(c) APPROPRIATE COMMITTEES OF CONGRESS DEFINED.—In this section, the term ''appropriate committees of Congress'' means—

(1) the Committee on Armed Services and the Committee on Veterans' Affairs of the Senate; and

(2) the Committee on Armed Services and the Committee on Veterans' Affairs of the House of Representatives.

**SEC. 502. TREATMENT OF STILLBORN CHILDREN AS INSURABLE DEPENDENTS UNDER SERVICEMEMBERS' GROUP LIFE INSURANCE.**

(a) TREATMENT.—Section 1965(10) is amended by adding at the end the following new subparagraph:

''(C) The member's stillborn child.''.

(b) CONFORMING AMENDMENT.—Section 101(4)(A) is amended by striking ''section 1965(10)(B)'' in the matter preceding clause (i) and inserting ''subparagraph (B) or (C) of section 1965(10)''.

**SEC. 503. OTHER ENHANCEMENTS OF SERVICEMEMBERS' GROUP LIFE INSURANCE COVERAGE.**

(a) EXPANSION OF SERVICEMEMBERS' GROUP LIFE INSURANCE TO INCLUDE CERTAIN MEMBERS OF INDIVIDUAL READY RESERVE.—

(1) IN GENERAL.—Section 1967(a)(1)(C) is amended by striking ''section 1965(5)(B) of this title'' and inserting ''subparagraph (B) or (C) of section 1965(5) of this title''.

(2) CONFORMING AMENDMENTS.—

(A) Section 1967(a)(5)(C) is amended by striking ''section 1965(5)(B) of this title'' and inserting ''subparagraph (B) or (C) of section 1965(5) of this title''; and

(B) Section 1969(g)(1)(B) is amended by striking ''section 1965(5)(B) of this title'' and inserting ''subparagraph (B) or (C) of section 1965(5) of this title''.

(b) REDUCTION IN PERIOD OF DEPENDENTS' COVERAGE AFTER MEMBER SEPARATES.—Section 1968(a)(5)(B)(ii) is amended by striking ''120 days after''.

(c) AUTHORITY TO SET PREMIUMS FOR READY RESERVISTS' SPOUSES.—Section 1969(g)(1)(B) is amended by striking ''(which shall be the same for all such members)''.

(d) FORFEITURE OF VETERANS' GROUP LIFE INSURANCE.—Section 1973 is amended by striking ''under this subchapter'' and inserting ''and Veterans' Group Life Insurance under this subchapter''.

(e) EFFECTIVE AND APPLICABILITY DATES.—

(1) The amendments made by subsection (a) shall take effect on the date of the enactment of this Act.

(2) The amendment made by subsection (b) shall apply with respect to Servicemembers' Group Life Insurance coverage for an insurable dependent of a member, as defined in section 1965(10) of title 38, United States Code (as amended by section 502 of this Act), that begins on or after the date of the enactment of this Act.

(3) The amendment made by subsection (c) shall take effect as if enacted on June 5, 2001, immediately after the enactment of the Veterans' Survivor Benefits Improvements Act of 2001 (Public Law 107–14; 115 Stat. 25).

(4) The amendment made by subsection (d) shall apply with respect to any act of mutiny, treason, spying, or desertion committed on or after the date of the enactment of this Act for which a person is found guilty, or with respect to refusal because of conscientious objections to perform service in, or to wear the uniform of, the Armed Forces on or after the date of the enactment of this Act.

## TITLE VI—OTHER MATTERS

**SEC. 601. AUTHORITY FOR SUSPENSION OR TERMINATION OF CLAIMS OF THE UNITED STATES AGAINST INDIVIDUALS WHO DIED WHILE SERVING ON ACTIVE DUTY IN THE ARMED FORCES.**

(a) AUTHORITY.—Section 3711(f) of title 31, United States Code, is amended—

(1) by redesignating paragraph (3) as paragraph (4); and

(2) by inserting after paragraph (2) the following new paragraph (3):

''(3) The Secretary of Veterans Affairs may suspend or terminate an action by the Secretary under subsection (a) to collect a claim against the estate of a person who died while serving on active duty as a member of the Army, Navy, Air Force, Marine Corps, or Coast Guard during a period when the Coast Guard is operating as a service in the Navy if the Secretary determines that, under the circumstances applicable with respect to the deceased person, it is appropriate to do so.''.

(b) EQUITABLE REFUND OF AMOUNTS COLLECTED.—The Secretary of Veterans Affairs may refund to the estate of such person any amount collected by the Secretary (whether before, on, or after the date of the enactment of this Act) from a person who died while serving on active duty as a member of the Armed Forces if the Secretary determines that, under the circumstances applicable with respect to the deceased person, it is appropriate to do so.

**SEC. 602. MEMORIAL HEADSTONES AND MARKERS FOR DECEASED REMARRIED SURVIVING SPOUSES OF VETERANS.**

(a) IN GENERAL.—Section 2306(b)(4)(B) is amended by striking ''an unremarried surviving spouse whose subsequent remarriage was terminated by death or divorce'' and inserting ''a surviving spouse who had a subsequent remarriage''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to deaths occurring on or after the date of the enactment of this Act.

**SEC. 603. THREE-YEAR EXTENSION OF AUTHORITY TO CARRY OUT INCOME VERIFICATION.**

Section 5317(g) is amended by striking ''September 30, 2008'' and inserting ''September 30, 2011''.

**SEC. 604. THREE-YEAR EXTENSION OF TEMPORARY AUTHORITY FOR THE PERFORMANCE OF MEDICAL DISABILITY EXAMINATIONS BY CONTRACT PHYSICIANS.**

Section 704(c) of the Veterans Benefits Act of 2003 (Public Law 108–183; 117 Stat. 2651; 38 U.S.C. 5101 note) is amended by striking ''December 31, 2009'' and inserting ''December 31, 2012''.

The title was amended so as to read:

A Bill to amend title 38, United States Code, to improve and enhance compensation and pension, housing, labor and education, and insurance benefits for veterans, and for other purposes.

## CONGRATULATING LATVIA ON 90TH ANNIVERSARY OF DECLARATION OF INDEPENDENCE

Mr. LEVIN. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be discharged from further consideration of S. Con. Res. 87, and that the Senate then proceed to its immediate consideration.

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. 87) congratulating the Republic of Latvia on the 90th anniversary of its declaration of independence.

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. LEVIN. Mr. President, I further ask unanimous consent that the concurrent resolution be agreed to, the

preamble be agreed to, the motions to reconsider be laid upon the table, with no intervening action or debate, and any statements relating to the measure be printed in the RECORD.

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

The concurrent resolution (S. Con. Res. 87) was agreed to.

The preamble was agreed to.

The concurrent resolution, with its preamble, reads as follows:

S. CON. RES. 87

Whereas, on November 18, 1918, in the City of Riga, the members of the People's Council proclaimed Latvia a free, democratic, and sovereign nation;

Whereas, on July 24, 1922, the United States formally recognized Latvia as an independent and sovereign nation;

Whereas Latvia existed for 21 years as an independent and sovereign nation and a fully recognized member of the League of Nations;

Whereas Latvia maintained friendly and stable relations with its neighbors, including the Soviet Union, during its independence, without any border disputes;

Whereas Latvia concluded several peace treaties and protocols with the Soviet Union, including a peace treaty signed on August 11, 1920, under which the Soviet Union ''unreservedly recognize[d] the independence and sovereignty of the Latvian State and forever renounce[d] all sovereign rights . . . over the Latvian people and territory'';

Whereas, despite friendly and mutually productive relations between Latvia and the Soviet Union, on August 23, 1939, Nazi Germany and the Soviet Union signed the Molotov-Ribbentrop Pact, which contained a secret protocol assigning Latvia, Estonia, and Lithuania to the Soviet sphere of influence;

Whereas, under the cover of the Molotov-Ribbentrop Pact, on June 17, 1940, Latvia, Estonia, and Lithuania were forcibly incorporated into the Soviet Union in violation of pre-existing peace treaties;

Whereas the Soviet Union imposed upon the people of Estonia, Latvia, and Lithuania a communist political system that stifled civil dissent, free political expression, and basic human rights;

Whereas the United States never recognized this illegal and forcible occupation, and successive United States presidents maintained continuous diplomatic relations with these countries throughout the Soviet occupation, never accepting them to be ''Soviet Republics'';

Whereas, during the 50 years of Soviet occupation of the Baltic states, Congress strongly, consistently, and on a bipartisan basis supported a United States policy of legal non-recognition;

Whereas, in 1953, the congressionally-established Kersten Commission investigated the incorporation of Latvia, Estonia, and Lithuania into the Soviet Union and determined that the Soviet Union had illegally and forcibly occupied and annexed the Baltic countries;

Whereas, in 1982, and for the next nine years until the Baltic countries regained their independence, Congress annually adopted a Baltic Freedom Day resolution denouncing the Molotov-Ribbentrop Pact and appealing for the freedom of the Baltic countries;

Whereas, in 1991, Latvia, Estonia, and Lithuania regained their de facto independence and were quickly recognized by the United States and by almost every other country in the world, including the Soviet Union;

Whereas, in 1998, the United States and the three Baltic nations signed the U.S.-Baltic Charter of Partnership, an expression of the importance of the Baltic Sea region to United States interests;

Whereas the 109th Congress resolved (S. Con. Res. 35 and H. Res. 28) that ''it is the sense of Congress that the Government of the Russian Federation should issue a clear and unambiguous statement of admission and condemnation of the illegal occupation and annexation by the Soviet Union from 1940 to 1991 of the Baltic countries of Estonia, Latvia and Lithuania, the consequences of which will be a significant increase in good will among the affected people'';

Whereas Latvia has successfully developed as a free and democratic country, ensured the rule of law, and developed a free market economy;

Whereas the Government of Latvia has constantly pursued a course of integration of that country into the community of free and democratic nations, becoming a full and responsible member of the United Nations, the Organization for Security and Cooperation in Europe, the European Union, and the North Atlantic Treaty Organization;

Whereas the people of Latvia cherish the principles of political freedom, human rights, and independence; and

Whereas Latvia is a strong and loyal ally of the United States, and the people of Latvia share common values with the people of the United States: Now, therefore, be it

*Resolved by the Senate (the House of Representatives concurring),* That Congress—

(1) congratulates the people of Latvia on the occasion of the 90th anniversary of that country's November 18, 1918, declaration of independence;

(2) commends the Government of Latvia for its success in implementing political and economic reforms, for establishing political, religious and economic freedom, and for its strong commitment to human and civil rights;

(3) recognizes the common goals and shared values of the people of Estonia, Latvia, and Lithuania, the close and friendly relations and ties of the three Baltic countries with one other, and their tragic history in the last century under the Nazi and Soviet occupations;

(4) calls on the President to issue a proclamation congratulating the people of Latvia on the 90th anniversary of the declaration of Latvia's independence on November 18, 1918;

(5) respectfully requests the President to congratulate the Government of Latvia for its commitment to democracy, a free market economy, human rights, the rule of law, participation in a wide range of international structures, and security cooperation with the United States Government; and

(6) calls on the President and Secretary of State to urge the Government of the Russian Federation to acknowledge that the Soviet occupation of Latvia, Estonia, and Lithuania under the Molotov-Ribbentrop Pact and for the succeeding 51 years was illegal.

## SIGNING AUTHORITY—S. 3406

Mr. LEVIN. Mr. President, I ask unanimous consent that Senator HARKIN be authorized to sign the duly enrolled copy of S. 3406, a bill to restore the intent and protections of the Americans With Disabilities Act of 1990.

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

## ORDERS FOR WEDNESDAY, SEPTEMBER 17, 2008

Mr. LEVIN. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand adjourned until 9:30 a.m. tomorrow, Wednesday, September 17; that following the prayer and pledge, the Journal of proceedings be approved to date, the morning hour be deemed expired, the time for the two leaders be reserved for their use later in the day, and the Senate proceed to a period of morning business for up to 1 hour, with Senators permitted to speak therein for up to 10 minutes each, with the time equally divided and controlled between the two leaders or their designees, with the majority controlling the first half and the Republicans controlling the second half; that following morning business, the Senate resume consideration of S. 3001, the National Defense Authorization Act; further, that all time in adjournment, recess, and morning business count postcloture.

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

## PROGRAM

Mr. LEVIN. Mr. President, cloture was invoked this afternoon and the managers of the bill continue to work through filed amendments. We expect to complete action on the Defense authorization bill during tomorrow's session and rollcall votes are possible throughout the day.

## ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. LEVIN. If there is no further business to come before the Senate, I ask unanimous consent that it stand adjourned under the previous order.

There being no objection, the Senate, at 6:51 p.m., adjourned until Wednesday, September 17, 2008, at 9:30 a.m.

## NOMINATIONS

Executive nominations received by the Senate:

DEPARTMENT OF STATE

BILL NELSON, OF FLORIDA, TO BE A REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE SIXTY-THIRD SESSION OF THE GENERAL ASSEMBLY OF THE UNITED NATIONS.

BOB CORKER, OF TENNESSEE, TO BE A REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE SIXTY-THIRD SESSION OF THE GENERAL ASSEMBLY OF THE UNITED NATIONS.

ANTHONY H. GIOIA, OF NEW YORK, TO BE A REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE SIXTY-THIRD SESSION OF THE GENERAL ASSEMBLY OF THE UNITED NATIONS.

KAREN ELLIOTT HOUSE, OF NEW JERSEY, TO BE AN ALTERNATE REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE SIXTY-THIRD SESSION OF THE GENERAL ASSEMBLY OF THE UNITED NATIONS.

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

JAMES W. CEASER, OF VIRGINIA, TO BE A MEMBER OF THE NATIONAL COUNCIL ON THE HUMANITIES FOR A TERM EXPIRING JANUARY 26, 2014, VICE CELESTE COLGAN, TERM EXPIRED.

THE JUDICIARY

ALFRED S. IRVING, JR., OF THE DISTRICT OF COLUMBIA, TO BE AN ASSOCIATE JUDGE OF THE SUPERIOR COURT OF THE DISTRICT OF COLUMBIA FOR THE TERM OF FIFTEEN YEARS, VICE MARY ANN GOODEN TERRELL, RETIRED.

IN THE COAST GUARD

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES COAST GUARD RESERVE UNDER TITLE 10, U.S.C., SECTION 12203:

*To be captain*

ROBERT P. BRANC
PETER D. CONLEY
BRETT A. CONTENT
STEVEN J. CRAIG
SCOTT E. DOUGLASS
MICHAEL K. HART
DONALD W. JILLSON
JOHN KOEPPEN
RONALD J. KRAEMER
MARILEA A. LLOYD
ANDREW S. MCKINLEY
ROBERT T. NEWTON
CHARLES E. POLK
STEVEN H. POPE
ALAN L. REAGAN
SCOTT D. SCHAEFER
CHRISTOPHER E. SCHAFFER
HEKMAT D. TAMIMIE

IN THE ARMY

THE FOLLOWING NAMED ARMY NATIONAL GUARD OF THE UNITED STATES OFFICER 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*

JONATHAN E. KRAFT

THE FOLLOWING OFFICER FOR REGULAR APPOINTMENT IN THE GRADE INDICATED IN THE UNITED STATES ARMY DENTAL CORPS UNDER TITLE 10, U.S.C., SECTIONS 531 AND 3064:

*To be colonel*

D0000

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*

PHILIP W. GAY
VIRGINIA A. KRAUSHAAR
THOMAS E. LANGUIRAND
MARK A. LITZ
MICHAEL C. MAFFEI
TIMOTHY N. THOMBLESON

THE FOLLOWING OFFICER FOR REGULAR APPOINTMENT IN THE GRADE INDICATED IN THE UNITED STATES ARMY MEDICAL CORPS UNDER TITLE 10, U.S.C., SECTIONS 531 AND 3064:

*To be lieutenant colonel*

D0000

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY UNDER TITLE 10, U.S.C., SECTIONS 624:

*TO Be lieutenant colonel*

TYRONE P. CRABB

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY UNDER TITLE 10, U.S.C., SECTION 624:

*To be lieutenant colonel*

MICHAEL M. KING
ROBIN L. WADE
BRADLEY C. WARE

THE FOLLOWING OFFICERS FOR REGULAR APPOINTMENT IN THE GRADES INDICATED IN THE UNITED STATES ARMY MEDICAL SERVICE CORPS UNDER TITLE 10, U.S.C., SECTIONS 531 AND 3064:

*To be lieutenant colonel*

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*To be major*

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THE FOLLOWING OFFICER FOR REGULAR APPOINTMENT IN THE GRADE INDICATED IN THE UNITED STATES ARMY VETERINARY CORPS UNDER TITLE 10, U.S.C., SECTIONS 531 AND 3064:

*To be major*

D0000

THE FOLLOWING OFFICERS FOR REGULAR APPOINTMENT IN THE GRADE INDICATED IN THE UNITED STATES ARMY MEDICAL SPECIALIST CORPS UNDER TITLE 10, U.S.C., SECTIONS 531 AND 3064:

*To be major*

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THE FOLLOWING OFFICERS FOR REGULAR APPOINTMENT IN THE GRADE INDICATED IN THE UNITED STATES ARMY UNDER TITLE 10, U.S.C., SECTION 531:

*To be major*

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THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY UNDER TITLE 10, U.S.C., SECTION 624:

*To be major*

JONATHAN S. ACKISS
LEUILA S. ALAIMALEATA
CORNELIUS L. ALLEN, JR.
JONATHAN E. ALLEN
REGAN J. ALLEN
LUIS F. ALVAREZ
MATTHEW S. ARBOGAST
REGINALD F. ARMSTRONG
SHAWNE P. ARMSTRONG
ROBERT A. ARROYO
HELEN M. AUSTIN
HOOKER C. AVERY
ALEXANDER C. BABINGTON
YANCY R. BAER
ANDREW A. BAIR
JACQUELINE E. BAIRD
KAREN A. BAKER
PATRICK J. BAKER
JACKSON L. BALL
THERON P. BALLARD
JEROME K. BARNARD
TIMOTHY J. BARRETT
CHRISTOPHER P. BARTOS
RICHARD T. BASYE
NAYDA C. BATES
NICOLE D. BEAVERS
JONATHAN A. BECK
PAUL B. BEDNAR
JOEY R. BEDOYA
BRYAN V. BELLAMY
JOSE V. BERCEDONI
JASON A. BERDOU
MARIA S. BERGER
DANIEL J. BIDETTI
WALTER M. BIELECKI
JAVIER F. BILBAO
CATRINA M. BLAIR
RON L. BLANCH
BRYAN A. BLITCH
DANGELO A. BLOUNT
JAMES E. BLUMAN
THOMAS R. BOLAND
PAUL M. BONANO
FREEMAN T. BONNETTE
JOSEPH M. BOROVICKA
PETER C. BOYER
NIKEA M. BRAME
RAYMOND D. BRAND
TROY C. BRANNON
JEFFREY M. BRASHEAR
BERNITA F. BRIGGS
MEGAN A. BROGDEN
KENNETH P. BROPHY
HENRY C. BROWN
NOREEN A. BROWN
JEREMY BRUNET
MIRYAM D. BRUNSON
JEFFREY M. BURNETT
SAMUEL A. BURNS
PAUL F. BUSHEY
WILLIAM H. BUTLER
SIDNEY F. BYRNE, JR.
PETER A. CAGGIANO II
SHAWN M. CALVERT
MARK CAP
JOSIEL CARRASQUILLOMORALES
NICOLE M. CASAMASSIMA
YONG S. CHANG
PATRICK A. CHAVEZ
MARTIN J. CHEMAN
MICHAEL C. CHERRY
JASON C. CHRISTENSON
STEPHEN L. CHRISTIAN
ERIC P. CHRISTIANSEN, JR.
MARC S. CICHOWICZ
ADAM D. CLARK
WILLIAM J. CLARK
ERIC S. CLARKE
JARED L. CLINGER
ANDY R. CLINKSCALES
MICHAEL P. COBB
FRANKIE C. COCHIAOSUE
KIM M. COHEN
ADAM J. COLLINS
CLAIRE COLLINS
JULIO COLONGONZALEZ
DAVID B. COOK
JAMES D. COOK
RICHARD M. CORPUZ
BRIAN M. COZINE
MICHAEL L. CRIBB, JR.
DANA E. CROW
STEPHEN M. CROW
ANTHONY R. CRUTCHFIELD
LANCE J. CULVER
ELIZABETH H. CURTIS
IVAN W. DACRES, JR.
JOHN Q. DANG
PAUL R. DAVIS
RANDALL E. DAVIS, JR.
WILLIAM D. DAVIS
JUSTIN E. DAY
JEAN A. DEAKYNE
SAUL D. DECKER
VICTOR M. DIAZ III
TIFFINEY R. DIMERY
MICHAEL D. DOLGE
BRIAN T. DONAHUE
JOHN C. DOSS
ANTHONY E. DOUGLAS
EMANUEL M. DUDLEY
GERALD J. DUENAS
THERESA L. ELLISON
STACY M. ENYEART
ANDREA M. ESCOFFERY
PATRICK C. EVANS
CHARLEY R. FANIEL
BRYAN J. FENCL
GREGORY A. FEND
KIMBERLY A. FERGUSON
DAWN M. FICK
ALAIN G. FISHER
MARC J. FLEURANT
CASSANDRA N. FORRESTER
CHRISTOPHER L. FOSTER
MISTI L. FRODYMA
JAMES K. GADOURY
ALEX M. GALESI
OMAR GARCIA
ROSADO A. GARCIA
VINCENTE GARCIA
GRETCHEN J. GARDNER
ANNETTE L. GARRETT
WILLIAM A. GARRIS
CHAE GAYLES
JAMES J. GEISHAKER
JUSTIN R. GERKEN
MATTHEW E. GILLESPIE
ERIN M. GILLIAM
TENNILLE L. GLADDEN
MATTHEW M. GOMEZ
ANDREW E. GONZALEZ
MARIO A. GONZALEZGONZALEZ
ERIC M. GOULDTHORPE
ROBYN A. GRAHAM
JOSEPH A. GRANDE, JR.
MIRANDA E. GRAVEL
RHEA M. GREAVES
JESSIE K. GRIFFITH III
ADAM M. GRIM
ROBERT P. GRIMMING
CHARLES G. GRISWOLD III
DOUGLAS B. GUARD
DANIEL E. GUNTER
STEVEN D. GUTIERREZ
THOMAS W. HAAS
CHARLES E. HALL
TODD C. HANKS
ANDRELL J. HARDY
KEVIN M. HARRIS
DARREN W. HASSE
JASON J. HAUSER
JERROD E. HAWK
MICHAEL T. HEALY
HANNAH HEISHMAN
SCOTT E. HELMORE
TRACIE M. HENRYNEILL
SERELDA L. HERBIN
BROOK E. HESS
RONTARIO S. HICKS
LUCAS S. HIGHTOWER
CHRISTOPHER M. HILL
WILLIAM S. HOLLANDER III
DAVID L. HOSLER
JOHN A. HOTEK
CATHERINE C. HOWARD
CHRISTOPHER S. HOWSER
LONNIE R. HUSKEY
ANGELA B. HYSON
JEFFREY J. IGNATOWSKI
SEAN P. IMBS
DONNA L. INGRAM
JEFFREY J. JABLONSKI

JOHN E. JACKSON
JAMES M. JACOBSON
CHARLES T. JAGGER
ANGELA M. JAMES
SABRINA S. JAMESHENRY
CHARLES V. JAQUILLARD
SEANA M. JARDIN
CHRISTOPHER D. JOHNSON
DONNA J. JOHNSON
LARRY P. JOHNSON
PAUL D. JOHNSTON
DAVID W. JONES
LEAH N. JONES
RONALD M. JONES
VERNON L. JONES, JR.
MICHAEL T. JORDAN
MOTT J. KAEO
JENNIFER S. KARIM
MICHAEL D. KAUL
DOMINIQUE R. KEITH
SEAN P. KELLY
MICHAEL T. KERN
SPENCER R. KERR
MATTHEW R. KERSHNER
MICHAEL T. KIM
TROY K. KING
WAYNE M. KINNEY
BRIAN M. KNIERIEM
STEPHEN T. KOEHLER
CODY W. KOERWITZ
ROBERT A. KONOPKA, JR.
ANDREW T. KOSCHNIK
WILLIAM R. KOST
THOMAS D. KRUPP
MATTHEW L. KUHNS
GENGHIS K. KUO
ARMANDO R. KUPPINGER
WESLEY J. KWASNEY
WILLIAM E. LAASE
HEATHER D. LABRECQUE
JAMES J. LACARIA
GERALD M. LACROSS
JUAN C. LAGO
TANZIE R. LANDRYMCGEE
BARRCARY J. LANE
MARVA R. LANE
TYRONNE G. LASTRAPES, JR.
JONG U. LEE
MARK W. LEE
JOEL K. LEFLORE
ROBERT W. LENTNER III
MATTHEW S. LINEHAN
TERRY C. LITTLEJOHN
INGRID J. LLANES
CARLOS A. LOCK
JAMES T. LOCKLEAR
HEATHER J. LOPEZ
MATTHEW J. LOVELL
CHRISTOPHER LOWERY
JAMES J. LUCOWITZ, JR.
JEFFREY L. LUCOWITZ
THOMAS R. LUTZ
IAN J. LYNCH
HEATHER J. MACE
BRIAN W. MACK
PAUL B. MADDEN
CARMELO T. MADERA
STEPHEN MAGNER
PATRICK M. MAJOR
ANTHONY P. MARANTE
JESSE R. MARSALIS
JASON W. MARSHALL
ANGELICA R. MARTINEZ
KATIE E. MATTHEW
ROLAND L. MATTHEWS
SYBILY M. MAXAMROGERS
ANGELA C. MAXWELLBORGES
STANLEY C. MAYNARD
ASUERO N. MAYO, JR.
MARLON MCBRIDE
MICHAEL A. MCBRIDE
GWENDOLYN A. MCCALL
JESSICA M. MCCALL
RICHARD C. MCCONICO
SHANNON T. MCCRORY
JENNIFER MCDONOUGH
STEPHEN P. MCGOWAN
MATTHEW J. MCGRAW
CHRISTOPHER S. MCLEAN
BRETT M. MEDLIN
JONATHAN W. MEISEL
CARLOS R. MENDEZ
ANDREW J. MEYERS
JASON L. MILES
MARVIN B. MILLAR
SAMUEL R. MILLER
ZACHARY T. MILLER
JEFF R. MILNE
ROGER C. MIRANDA
JOHN G. MISENHEIMER, JR.
DAVID A. MITCHELL
KEITH C. MIXON
JERRY R. MIZE
FAMARLON L. MOBLEY
KATHLEEN M. MOFFATT
LOVE L. MOODY
CHRISTOPHER L. MOORE
RICHARD B. MOORE
SHANE A. MORRIS
MICHAEL E. MORRISON
WALLACE K. MYERS III
NINA L. NEWELL
RANDALL W. NEWMAN
MICHELLE D. NHAMBURE
KYLE A. NODA
DAVID N. NORMAND
SHAWN M. OBRIEN
MUNIZ E. OTERO
AARON M. OWENS
KRISTOPHER K. PABOTOY
JOHN PADGETT
ROSENDO PAGAN
PHILBERT J. PALMORE
ROBERT M. PARK
PETER A. PATTERSON
MATTHEW C. PAUL
KESHA N. PEARSON
CURTIS S. PERKINS
WILLIAM C. PERKINS
HENRY PERRY III
ANTHONY J. PETE
KEVIN D. PIERCE
TARA C. PIERCE
MARTIN P. PLYS, JR.
KEVIN A. POOLE
DEWUANA L. POPE
EUGENE T. PORTER
PHILLIP B. POTEET
KENDRICK R. POWELL
STEVEN POWER
ELIZABETH M. POWERS
RICHARD A. PRAUSA
JOHN K. PRICE
MATTHEW A. PRICE
INGRID R. PRIVETTE
ANTIONETTE N. PULLEY
GRETA A. RAILSBACK
ANDRES R. RAMIREZ III
ELDRED K. RAMTAHAL
DORIS L. RAWLS
JOSE L. RAYAESCUTIA
PETER M. RAYLS
TRACIA T. REED
JASON L. RENNARD
JON O. REYES
LUKE RICHARDS
SEAN R. RICHARDSON
MICHAEL K. RILEY
JAMES R. RITCH
GEOVANNI S. RIVERA
BENJAMIN L. RIX
DOMINGOS S. ROBINSON
LILLIAN A. ROBINSON
VIRGIL G. ROBITZSCH
MICHAEL C. RODOCKER
LEON L. ROGERS
ORLANDO R. ROJASBANREY
GEORGE W. ROLLINSON
GILBERTO C. ROLON
ANGEL R. ROSADOPADILLA
JOSEPH L. ROSEN
CHRISTOPHER M. ROZHON
RANEE J. RUBIO
DINA D. RUCK
ANDREW M. RUIZ
THOMAS H. RUTH III
WALIYYUDDIN SABARI
JOHN V. SALLING
SHAWN D. SANBORN
GINA D. SANNICOLAS
MICHAEL A. SANSONE
DONALD C. SANTILLO
NATHAN R. SAWYER
JOHN M. SCHMITT
PATRICK M. SCHOOF
WILLIAM S. SCHUYLER, JR.
RYAN A. SCHWANKHART
LANGSTON L. SCOTT II
JAVIER SEPULVEDATORRES
DONALD E. SHAWLEY, JR.
ROBERT E. SHEFNER
DENNIS L. SHELDEN
ERIC L. SHEPHERD
MICHAEL B. SHERIDAN
JASON L. SHICK
JESSICA A. SHUEY
SAMSON T. SIDER
BRUCE A. SKRABANEK
ALLEN M. SLITER
ADAM D. SMITH
JEREMY D. SMITH
SCOTT A. SMITSON
JOHN K. SNYDER
KIMBERLY A. SORENSON
JASON R. SOUZA
NICHOLAS T. SPORINSKY
PIERRE A. SPRATT
SHANNON V. STAMBERSKY
NATASHA N. STANDARD
DANIEL R. STANTON III
ERIN M. STEWART
LEWIS STEWART III
RONALD H. STEWART, JR.
JEFFREY R. STRAUSS
JOHN B. STRINGER, JR.
LISA C. STUBBLEFIELDPEAK
MARTIN L. STUFFLEBEAM
PATRICK C. STURGILL
THOMAS B. TABAKA
DOMINIC J. TANGLAO
ALLEN D. TAPLEY
BRECK A. TARR
DAVID L. TAYLOR, JR.
FRANYATE D. TAYLOR
TROY W. TEMPLE
PAUL D. TEMPLETON
MICHAEL J. TESS
MICHAEL J. THIESFELD
HELEN A. THOMAS
DAVID L. THOMPSON
LORAY THOMPSON
STEPHEN A. THORPE
JOHN S. THYNG
ALVIN E. TILLEY, JR.
DERRICK L. TOLBERT
JOSE A. TOLLINCHI
ANDREW J. TONG
MIGUEL A. TORRES
TOMISHA A. TOSON
ANDRE L. TOUSSAINT
KEVIN J. TRAMONTE
ANITA R. TREPANIER
GEORGE TRONCOSO
TIMOTHY S. TROYER
THOMAS J. TROYN
LEILANI M. TYDINGCO
DENNIS J. UTT
CHARLES R. VALENTINE
BERNARD D. VANBROCKLIN
EARL D. VEGAFRIA
JOHN L. VELARDE, JR.
JANELLE V. VERBECK
WILLIAM H. VICK, JR.
ADRIAN J. VIELHAUER, JR.
LAMAR WAGNER
CLAUDE E. WALKER
DAMON K. WALKER
BARRY L. WALSH, JR.
CENTRELL A. WATSON
STEPHEN R. WEBSTER
JEREMY H. WEESTRAND
RANDALL T. WEISER
MATTHEW W. WELCH
KWANE E. WELCHER
JESSE R. WENTWORTH II
MATTHEW R. WESTERN
BRIDGET A. WETZLER
STEPHANIE R. WHITE
ANTHONY K. WHITFIELD
THOMAS J. WHITLOW
JOSEPH B. WILKERSON
SONDRA L. WILKERSON
KENNETH A. WILLEFORD
DENNIS F. WILLIAMS
LARITA R. WILLIAMS
TERRENCE A. WILLIAMS
MICHAEL S. WILLS
ANTHONY L. WILSON
GORDON L. WILSON
JERORD E. WILSON
JOHNNY L. WILSON
KEITH WILSON
JOSEPH B. WOOLSEY
MELVIN E. WRIGHTSIL
MICHAEL D. WROBLEWSKI
JENNIFER R. ZAIS
MICHEAL A. ZWEIFEL
D0000
D0000

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY UNDER TITLE 10, U.S.C., SECTION 624:

*To be major*

STEPHEN L. ADAMSON
JOHN J. AGNELLO
JOHN M. AGUILAR, JR.
TAMMY L. AGUILAR
MATTHEW J. ALDEN
ROBERT E. ALLEN
SHAWANDA D. AMERSON
JOSEPH E. ANDERSON
JAKUB H. ANDREWS
KEVIN T. ASHWORTH
LANCE D. AWBREY
CHARLES R. AYERS
THOMAS A. BABBITT
DUANE L. BAILEY
DARBY S. BAIRD
JASON L. BALLINGER
MICHAEL J. BANCROFT
PAUL T. BARBER
TODD E. BAUMGARTEL
ALBERT E. BEHNKE
CRAIG R. BENDER
MICHAEL J. BENNETT
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CHRISTOPHER C. CHISHOLM
MELVIN A. CHISOLM

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CLAYTON P. COLEMAN
CRAIG C. COLUCCI
JENNIFER J. COLVIN
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JAMES A. COVINGTON, JR.
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DAVID P. DAVID
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DENNIS C. DAVIS
HEYWARD H. DAVIS
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RAYMOND G. DELUCIO
ANDREW C. DERMANOSKI
BRENDON K. DEVER
INDIRA R. DONEGAN
JULIA M. DONLEY
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MICHAEL B. DORSCHNER
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JONATHAN T. DRAKE
ROBERT J. DUNLAP
BRIAN P. DUNN
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DENTON L. DYE
AMY J. EASTBURG
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HEINZ EDER
ORM E. EL
LAWRENCE S. EMMER
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DARIUS D. ERVIN
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KEITH M. GIESEKE
EVANS L. GILLIARD
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ROCKY A. HALEY
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LEIF A. HANSEN
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DOUGLAS J. HARRIS
EDD D. HARRISON, JR.
READUS HARTON III
DENISE R. HATCHER
TOWYANGER J. HATCHER
BRIAN G. HAYES
BRIAN P. HAYES
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DUSTIN G. HEUMPHREUS
KAREN B. HILL
ULEKEYA S. HILL
HEATHER A. HILLS
NATASHA M. HINDS
DAIGO HIRAYAMA
CHRISTOPHER L. HOBACK
CHRISTOPHER S. HOBGOOD
BRADLEY S. HOBSON
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JARED A. HOFFMAN
HANS W. HOGAN
WILLIAM A. HOLCOMBE
THOMAS M. HOOPER
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TIMOTHY A. HUNT
TOD D. HUNTER
SCOTT A. HUTCHINSON
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SEIVIRAK INSON
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MATTHEW R. JENSEN
CHRISTOPHER L. JOHNSON
CRAIG W. JOHNSON
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LONNIE D. JOHNSTON
DREVON M. JONES
RAIN M. JONES
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BRANT E. KANANEN
JAY L. KAUFMAN
KRISTY E. KELLY
ROY D. KEMPF
TOMA KIM
BRADLEY G. KITTINGER
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ANDREW M. KOVANEN
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JUSTINE S. KRUMM
THOMAS J. KUCIK
REBEKAH L. KURTZWEIL
KRISTOFER H. KVAM
VINCENT C. LAI
JEFFREY J. LAKNER
KYLE W. LANDS
PATRICK J. LANE
JOHN S. LANGFORD
JAMES F. LAWSON
MICHAEL E. LAWSON
THANH V. LE
PATRICK Y. LEE
PAUL B. LEMIEUX
LASHADA Q. LEWIS
CONWAY LIN
DAWN C. LONGWILL
MICHAEL D. LOVE
ROBERT C. LOVEJOY
CHRISTOPHER J. LOWRANCE
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POLARIS X. LUU
THANG V. LY
MINH H. MA
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SHAWN P. MCMAHON
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THOMAS H. MELTON II
MARC T. MEYLE
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ERIC W. MILLER
RICHARD S. MILLS II
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ANGEL I. MIRANDA
BOUNYASITH MITTHIVONG
STACEY L. MOLETT
LILLIAN L. MONGAN
TYPHANIE Y. MONTEMAYOR
WILLIAM C. MOODY
CYNTHIA L. MOORE
CHRISTOPHER T. MORGAN
SCOTT M. MORGAN
LOUIS A. MORRIS
TIMOTHY J. MORROW
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JASON M. NAGY
GREGORY W. NAPOLI
MICHAEL P. NEEDHAM
JUAN C. NEGRON
DAVID L. NEWELL
HAC D. NGUYEN
JACOB P. NINAS
MARGARET A. NOWICKI
ROBERT A. NOWICKI
JASON P. NUNNERY
DAVID P. OAKLEY
TIMOTHY S. OBRYANT
MARK A. OGLES
IRVIN W. OLIVER, JR.
ELLIOT H. OLMSTEAD
CRAIG T. OLSON
MICHAEL T. OMEARA
FELICIA D. ONEAL
JULIE A. OPYD
EDWARD ORTIZVAZQUEZ
JAMON B. OSBORNE
YAQUI M. OSELEN
MARIBEL OSTERGAARD
STERLING J. PACKER
ROMEL C. PAJIMULA
RAFAL PANASIUK
KERI A. PASQUINI
ROBERT G. PATTERSON, JR.
GREGORY J. PAVLICHKO
MATTHEW G. PECK
JAY D. PELLERIN
CARLOS PENA, JR.
NICHOLAS W. PENNOLA
ROBERT C. PERRY, JR.
FOLDEN L. PETERSON, JR.
ERNEST S. PETROWSKY
PHAY B. PHROMMANY
ROBERT R. PIETRAFESA
JOSEPH W. PIOTROWSKI
BRIAN J. PLATT
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JOHN F. POPIAK
JEREMIAH K. PRAY
CHRISTOPHER A. PRESSLEY
DAVID J. PRICE
JEFFREY A. PROKOPOWICZ
CARRIE L. PRZELSKI
MANUEL F. PULIDO
GEORGE C. RANDOLPH, JR.
ANGELA E. REBER
JAMES A. REECE
JOHN M. REEDER
KEVIN T. REEVES
BLANCA E. REYES
GILBERTO M. REYES
ISMAEL REYES
STEVEN R. REYNNELLS
MARK G. RIEVES
KEVIN T. RILEY
MELISSA A. RINGHISEN
BART C. RITCHEY
BRENDA F. RIVASSANDOVAL
ANDRE G. RIVIER
KILLAURIN O. ROBERTS
MATTHEW U. ROBERTSON
KEVIN D. ROBINSON, JR.
THEODORE M. RODILL, JR.
MICHAEL P. ROGOWSKI
JOSEPH A. ROMAN
TIMOTHY J. ROOT
BRADLEY S. RUDDER
CYRUS K. RUSS
KENNETH J. RUTKA, JR.
MICHAEL S. RYAN
JIMMY C. SALAZAR
BENJAMIN F. SANGSTER
ROBERTO J. SANTIAGO
HERIBERTO SANTIAGOACEVEDO
DAVID N. SANTOS
DONALD W. SAPP
MICHAEL A. SAPP
RACHEL E. SARLES
ASSLAN SAYYAR
KENNETH A. SCERBO
JOSEPH E. SCHAEFER
JEFF F. SCHROEDER
LLOYD D. SCOTT
NELSON L. SEARS
TERESA L. SELPH
CARLOS R. SEPULVEDATORRES
NEERAJ SETHI
MICHAEL B. SHATTAN
RYAN L. SHAW
JOHN W. SHERMER
DAVID A. SHWIFF
GUS SIETTAS
JAMES A. SINK
DENNIS B. SLATON
TERRY W. SLAYBAUGH
DAVID J. SMITH
SAMUEL P. SMITH, JR.
HOWARD M. SMYTH
JAYSON R. SPANGLER
DARREN A. SPAULDING

ROBERT J. SPIVEY
GEOFFROY E. ST GAL DE PONS
ANTHONY M. STAFFORD
SCOTT K. STAGNER
JULIAN P. STAMPS
STEFFANIE STEELHAMMER
SORIN A. STEREA
JOHN C. STILLWELL
GREGORY V. STONE
ROBERT W. STRACK
CECIL A. STRICKLAND
BRADLEY N. STROUP
TROY L. SULLENS
MINDEE L. SUMMERS
JORDON E. SWAIN
JOHN SYERS
MONA A. TANNER
DAVID O. TAYLOR
JANINE T. TAYLOR
TIMOTHY R. TAYLOR
WILLIAM C. TAYLOR
MICHAEL J. TEMKO
JASON L. THOMAS
MATTHEW J. THOMAS
LESLIE W. THOMPSON
RACHEL J. THORNE
JOSEF THRASH III
ALAN W. THROOP
STANLEY O. THURSTON
ANTHONY L. TINGLE
STEVEN L. TINGLEY
THOMAS E. TOLMAN
ROBERT S. TOMPKINS
CATARINA J. TRAN
JOSHUA P. TRIGO
DAVID D. TURNER
WILLIAM E. TURNER
JAMES A. UMBARGER
JEFFREY B. VANSICKLE
KEITH S. VANYO
JOE A. VARGAS
ALEXANDER S. VINDMAN
CHARLES S. VORES
DAN R. WALKER, JR.
WAYNE B. WALL II
KEITH W. WALTHALL
MARK E. WARDER
JOSEPH B. WARING, JR.
ALAN R. WARMBIER
JASON W. WARREN
NATHANIAL E. WATSON
DENNIS D. WATTERS, JR.
JAMES R. WEARE
KEITH B. WEIDNER
JAMES W. WELCH
KARLA J. WENNINGER
AARON C. WENTWORTH
BRIAN S. WESTERFIELD
SHAWN E. WHITMORE
JARROD P. WICKLINE
EARMON C. WILCHER III
JAMES M. WILES
PAUL M. WILLIAMS
NORMAN L. WILSON II
LISA L. WINEGAR
CAROLYN A. WOOD
JEFFERY A. WOOD
CLIFFORD M. WOODBURN
KENNETH T. WOODS
CHRISTOPHER L. WOOLDRIDGE
DELVIN WOOLRIDGEJONES
DONOVAN WRIGHT
WILLIAM C. WRIGHT
JOHN R. WYATT
JOSEPH A. YOUNG
MICHAEL T. YOUNG
WILLIAM T. YOUNG
DANIEL W. ZANDER
DOUGLAS W. ZIMMERMAN
YANCEY S. ZINKON
RICHARD D. ZUBECK
D0000
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X0000

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY UNDER TITLE 10, U.S.C., SECTION 624:

*To be major*

MATTHEW T. ADAMCZYK
DEVON F. ADKINSON, JR.
RYAN P. AHRENDT
MATTHEW J. ALBERTUS
GREGORY K. ALEXANDER
NATHAN G. ALLARD
KELLY T. ALLEN
MARK R. ALLEN
RAMON W. ALMODOVAR
TERRENCE J. ALVAREZ
JUSTIN C. AMBURGEY
JARED J. AMORE
SPENCER M. ANDERSON
OKERA G. ANYABWILE
DOUGLAS P. APRIL
JAMES E. ARMSTRONG III
LAURENCE H. ARNOLD
WILLIAM I. ARNOLD, JR.
SHERYL O. ATTILEE
CHRISTOPHER J. AUGUSTINE
CHRISTOPHER J. AUGUSTINE
JOHN M. AUTEN III
JASON B. AVERY
RUBEN D. AYALA
VICTOR M. BAEZAN III
MARC R. BAILEY
ANDREW J. BAKER
JOHN L. BAKER, JR.
REGAN M. BALDWIN
MICHAEL L. BANDY
SCOTT H. BARBER
JEROME A. BARBOUR
KEITH A. BARCLAY
CHRISTOPHER M. BARLOW
RICHARD K. BARNES
AARON D. BARREDA
JEFFREY J. BARTA
DAVID P. BARTULA
BENJAMIN E. BATES
MARK E. BATTJES
RICHARD E. BAYLIE
TROY J. BEATTIE
STEVEN P. BEAUDOIN
RICHARD V. BEEVERS
JONATHAN T. BELMONT
DANIEL K. BENSON
JOSEPH E. BENSON
MICHAEL R. BERRIMAN
JOSHUA P. BERRYHILL
ANTHONY J. BIANCHI
TIMOTHY C. BIDDLE
JOHN BINKLEY
ELLIOTT J. BIRD
LOUIS L. BIRDWELL III
JOHN D. BISHOP
WILFRED M. BISSON
RHETT A. BLACKMON
SCOTT R. BLANCHARD
PATRICK D. BLANKENSHIP
WINN S. BLANTON
RICHARD J. BLOCK
CRAIG A. BLOW
ERNEST R. BOATNER
JEFFREY A. BOGAERTS
EVERETT R. BOGLE
ANTHONY M. BONARTI, JR.
MICHAEL J. BOUSSELOT
CHARLES D. BOVEY III
MARTIN J. BOWLING
KEVIN B. BOWMAN
VICTOR E. BOWMAN
DEL P. BOYER
JERRY L. BRADLEY, JR.
JAMES J. BRADY, JR.
MATTHEW F. BRADY
RICHARD E. BRATTON III
JEFFREY T. BRAUN
WAYNE R. BRIGGS
AARON D. BRIGHT
JAMES B. BRINDLE
MICHAEL A. BROCK
MICHAEL D. BROMUND
NICOLE A. BROOKS
KEVIN W. BROWN
MATTHEW M. BROWN
NATHAN S. BROWN
SONJA L. BRUCE
JOSEPH G. BRUHL
MARK A. BRZOZOWSKI
TROY C. BUCHER
NICHOLAS T. BUGAJSKI
DERRICK T. BURDEN
WILLIAM BURDEN
REED A. BURGGRABE
KEVIN BURKE
LANCE K. BURNSIDE
JEFFERY T. BURROUGHS
DAVID J. BURSAC
AARON P. BUSH
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LAURENCE J. CHRISTIAN
WILLIAM L. CHRISTOPHER
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IAN R. CLAXTON
STEVEN D. CLAY
STEPHEN L. CLOWER
CHRISTOPHER H. CLYDE
JUAN D. COBBS
CLINTON R. CODY
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DAVID S. COLLINS
XAVIER COLON
CHRISTOPHER A. COLSTER
CLAYTON L. COMBS
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KRISTINA L. CONNELLY
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GARY M. CONWAY
CHRISTINA N. COOK
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KENNETH R. DARNALL
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ROBERT E. DAVIDSON
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JOHN B. DAVIS III
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PAUL L. DENSON
TERRANCE D. DEUEL
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PABLO F. DIAZ
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CHARLES G. FAGERQUIST
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JENNIFER C. FARRELL
CORY D. FASS
DENNIS W. FAULKNER
BRIAN B. FAYE
BRIAN M. FECTEAU
BRIAN A. FERGUSON
TIMOTHY J. FERGUSON
JOHN V. FERRY
JAMES M. FEW
PLEAS B. FIELDS
RICHARD M. FIERRO
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JUDDSON C. FLORIS
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DAVID A. FLOWERS
MICHAEL J. FOOTE
CHARLES A. FORD
MICHAEL J. FORTENBERRY
DAVID E. FOSTER
ROBERT L. FOSTER
THOMAS J. FOURNIER
GREGORY R. FOXX
MATTHEW F. FROMBACH
DANIEL A. FUHR

REID E. FURMAN
JAMES F. GAFNEY
CHARLES P. GALLION
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JESSE A. GODOY
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ALBERT E. GOETZ III
JOHN R. GOLDSWORTHY
AUGUSTINE C. GONZALES
LUIS C. GONZALEZ
MIGUEL A. GONZALEZQUINONES
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PETER M. GRAY
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CULLUM P. GREENE
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RANDY E. GRIFFITHS
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PATRICK B. GROW
JEANPAUL A. GUERARD
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LAMONT R. HALE
DANIEL S. HALL
SARA M. HALLBERG
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ERIC E. HALSTROM
ALISON M. HAMILTON
BRET M. HAMILTON
JOSEPH R. HAMMOND
LUKE M. HAMMOND
CHRISTOPHER C. HAMMONDS
ALAN M. HAMMONS
CHRISTOPHER M. HANDY
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CLINTON D. HANNA
JODY D. HANSEN
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STEPHEN W. HENDERSON
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