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Senate

The Senate met at 10 a.m. and was called to order by the Honorable ROLAND W. BURRIS, a Senator from the State of Illinois.

PRAYER

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

Let us pray.

Eternal Father, we thank You for another day with its fresh promise, its opportunities and duties. As our bodies are renewed, so give strength to our minds and hearts to glorify You in our lives.

Be near our Senators as they labor. For their added burdens, give them increased strength. Lord, to all who serve in the government, provide a full measure of grace and wisdom that all things may be ordered according to Your will. Help our lawmakers to be faithful and obedient to Your vision for our Nation as You keep them from becoming weary in their pursuit of Your purposes.

We pray in Your loving Name. Amen.

PLEDGE OF ALLEGIANCE

The Honorable ROLAND W. BURRIS led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. BYRD).

The legislative clerk read the following letter:

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

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable ROLAND W. BURRIS, a Senator from the State of Illinois, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

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

RECOGNITION OF THE MAJORITY LEADER

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

SCHEDULE

Mr. REID. Mr. President, following leader remarks, there will be a period of morning business until 11 a.m., with the time equally divided between the two leaders or their designees and with Senators permitted to speak for up to 10 minutes each. At 11 a.m., the Senate will turn to executive session and immediately proceed to vote on confirmation of Regina McCarthy to be an Assistant Administrator of the Environmental Protection Agency. It is expected that will be a voice vote, but we will have to wait and see.

Upon disposition of the nomination, the Senate will resume legislative session and proceed to a rollcall vote on the motion to invoke cloture on the motion to proceed to H.R. 1256, the Family Smoking Prevention and Tobacco Control Act. Therefore, Senators should expect at least one rollcall vote to begin at 11 a.m. The Senate will recess from 12:30 until 2:15 today to allow for the weekly caucus luncheons.

Mr. President, I note 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. MCCONNELL. 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.

RECOGNITION OF THE MINORITY LEADER

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

HEALTH CARE

Mr. MCCONNELL. Mr. President, yesterday I noted that all of us wish to reform health care but that we need to do so without sacrificing what Americans like about our current system. They like the freedom, they like the choice, they like the quality of care, they like the options, and they like the efficiency. I also noted that the kind of government takeover of health care that some of our Democratic friends are contemplating could lead to a decline in every one of those things. This morning, I wish to explain in a little greater detail how it could happen.

The first point I wish to make is that the very concept of a government option is itself misleading. What starts out as an option could quickly become the only option. This is clear to anyone who realizes that, unlike market-based health plans, any government-run plan would have unlimited access to taxpayer money and could use that money to subsidize the cost of services, and artificially lower prices would make the government-run plan more attractive to individuals and businesses. Some say this could be avoided by creating ''safeguards'' to ensure a level playing field for the market-based insurers and a government plan. But no safeguard could create a truly level playing field, and any safeguard could easily be eliminated once a government plan is enacted. A government plan would also be able to operate at a loss—a loss the taxpayers would have to cover one way or another.

Government could also keep health care costs artificially low by paying providers less than private insurers do, just as it already does with both Medicare and Medicaid. At first blush, that

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

may actually sound appealing, but as we know, there is no such thing as a free lunch. Let me explain.

Right now, doctors and hospitals make up the difference between what a procedure costs and what the government is willing to pay for it by passing those costs on to private insurers. But doctors and hospitals would likely get even less under a new government health plan, so they would shift even more costs on to private insurers, who would then raise rates for individuals and businesses even higher than they were before. Once these higher rates take effect, employers would be all but certain to start encouraging workers to enroll in the government-run plan.

As a result of all of this, it is easy to see how private market health plans would become more and more expensive and thus less and less affordable and accessible. At some point, private health plans would likely be crowded out altogether, and government care would be the only option left. That is where the delays and the denied care would begin to kick in. Under a government system, Americans would have no choice but to accept all the bureaucratic hassles and the endless time spent on hold waiting for a government service representative to take their calls. They would also have to deal with all of the restrictions of care that inevitably follow. What is being advertised as an option will eventually lead to delays—delays in testing, delays in diagnosis, and delays in treatment.

So the question Americans need to ask themselves is whether this is the reform they really want. Do we really want a government takeover of health care, because that is what a so-called government option would lead to in very short order. Americans need to realize that when someone says ''government option,'' what could really occur is a government takeover that soon could lead to government bureaucrats denying and delaying care and telling Americans what kind of care they can have.

The irony in all of this is that as a result of a government takeover of health care, the private plans tens of millions of Americans currently enjoy will eventually only be available to just a very few wealthy Americans—to those who are able to pay for more health care than they currently have and like. According to a recent study, 119 million Americans would lose the private coverage they currently have as a consequence of a government plan. The best options would only remain available to a select few.

Over the last few months, we have seen government getting involved in virtually every aspect of our economy. Washington is suddenly running the banks and the auto companies. Now it is thinking about running America's health care. The results, I am afraid, would not lead to the kinds of reforms Americans really want in their health care. Instead, it would lead to a system that most Americans would deeply regret.

Mr. President, I yield the floor.

RESERVATION OF LEADER TIME

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

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business until 11 a.m., with Senators permitted to speak for up to 10 minutes each, with the time equally divided and controlled between the two leaders or their designees.

UNANIMOUS-CONSENT REQUEST—EXECUTIVE CALENDAR

The ACTING PRESIDENT pro tempore. The Senator from New Mexico is recognized.

Mr. BINGAMAN. Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider Calendar No. 97, the nomination of Hillary Chandler Tompkins to be Solicitor of the Department of the Interior; that the nomination be confirmed; that the motion to reconsider be laid upon the table; that no further motions be in order; that any statements related to the nomination be printed in the RECORD; that upon confirmation, the President be immediately notified of the Senate's action; and that the Senate then resume legislative session.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. MCCONNELL. Mr. President, reserving the right to object, and I will have to object, I would just say to my friend from New Mexico, we have not been able to get that nomination cleared yet on this side, but we will be consulting with the Republican colleagues and at some point let him know whether it is possible to go forward. Therefore, I object.

The ACTING PRESIDENT pro tempore. Objection is heard.

Mr. BINGAMAN. Mr. President, let me briefly describe the circumstances that caused me to make this unanimous-consent request. I am obviously disappointed there has been an objection raised to the confirmation of Ms. Tompkins. I am advised that one or more Republican Members have placed an anonymous hold on her nomination.

The Solicitor of the Department of the Interior—the office to which the President has nominated Ms. Tompkins—is one of the most important posts in the Department of the Interior and one of the most important legal positions in our government. The Department of the Interior has broad authority over the administration and care of our public lands and natural resources. Its many offices and bureaus face daily a broad range of legal issues requiring special expertise in public land law, mining law, water rights law, Indian law, and wildlife law. The Solicitor is the Department's general counsel. She is solely responsible for the legal work of the Department. By law, all the legal work of the Department is performed under the supervision and direction of the Solicitor. She is responsible for the interpretation and application of the legal authority affecting all of the actions taken under the Department of the Interior's programs and operations.

The job requires a deep knowledge of the law, professional experience, and sound judgment. In my view, the President has nominated such a person—a person with demonstrated ability and stature in this field in the person of Hillary Tompkins. She earned a law degree at Stanford University Law School in 1996. She served as a trial attorney in the Environment and Natural Resources Division of the Department of Justice, as a special Assistant U.S. Attorney in Brooklyn, as an associate in Sonosky Chambers, one of the Nation's leading law firms specializing in Native American law, as chief counsel to the Governor of New Mexico, and as an adjunct law professor at the University of New Mexico Law School.

As chief counsel to Governor Bill Richardson, Ms. Tompkins demonstrated her ability to lead and manage a team of lawyers, to oversee the general counsels of multiple agencies, and to render sound legal advice and counsel.

She will bring to the Solicitor's office considerable expertise in the areas of environmental, natural resources, water, and Indian law, as well as experience in the areas of constitutional law, administrative law, and the legislative process.

In addition, Ms. Tompkins has a compelling personal story. She was born on the Navajo reservation, and although she was raised in New Jersey, she has not lost touch with her Navajo heritage. If confirmed, she will be the first Native American, and only the second woman, to hold the office of Solicitor.

It is unclear to me why anyone would object to confirming Ms. Tompkins. She is clearly well qualified for the position. At her hearing in April and in the weeks since then, Senators on the other side of the aisle have expressed their concerns about departmental policies, over which Ms. Tompkins has had no control and no responsibility. Secretary Salazar has bent over backwards to address those concerns, and it is my understanding all of those concerns now have been addressed.

In any event, Senators had chosen to place holds on David Hayes's nomination to be the Deputy Secretary of the Interior, rather than on Ms. Tompkins' nomination, pending resolution of their concerns. The holds on Mr. Hayes's nomination were lifted before the recess, and he and all of the other Department of the Interior nominees have now been confirmed. Only Ms. Tompkins' nomination is still being blocked.

Many of the most pressing problems facing the Department of the Interior

are legal ones. During its final weeks, the previous administration took a number of controversial actions. In its rush to lock in those actions before it left office, the previous administration failed to give adequate consideration to various legal requirements. As a result, several of those actions have been overturned by the courts.

Secretary Salazar has inherited this legacy and is doing his best to address these problems. But he needs a Solicitor. More than 4 months into the new administration, the Department of the Interior should not still be without its top legal officer. And Ms. Tompkins should not still be the victim of anonymous holds.

DEATH OF ANASTASIOS ''TASS'' HATJIKIRIAKOS

Mr. BINGAMAN. Mr. President, I was deeply sorry to learn this morning of the death of a long-time Senate employee and friend, ''Mr. Tass.'' An integral part of the Senate Resataurants staff for many years, he was a great friend to me and to my office.

He died on Sunday from injuries received when he was hit by a car in Silver Spring. All of us who knew him and appreciated his service to the Senate join his family and friends in mourning his loss. He—and they—are in our thoughts and prayers.

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

Mr. BARRASSO. Mr. President, I ask unanimous consent to speak for up to 15 minutes.

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

REGINA McCARTHY

Mr. BARRASSO. Mr. President, I rise today to offer my concerns regarding the nomination of Regina McCarthy to be the Administrator for the Office of Air and Radiation in the Environmental Protection Agency.

For the past few weeks, I have been seeking responses from the nominee and the administration on their efforts to use the Clean Air Act to regulate climate change.

I have put a hold on her because I have serious concerns about the EPA using the Clean Air Act to regulate climate change.

I want to know the plan that the nominee will implement. I want to know how she will protect businesses, farms, hospitals, and nursing homes from the effects of the EPA's endangerment finding.

As you know, the endangerment finding designates CO_2 as a harmful pollutant to public health under the Clean Air Act.

The finding's effects on the Clean Air Act will require EPA to regulate any building, structure, facility or installation that emits more than 250 tons of a CO_2 in a year.

The result would be thousands of lost jobs, with no environmental benefit to show for it.

Hospitals, schools, farms, commercial building and nursing homes will be required to obtain preconstruction permits for their activities. EPA says this will not occur, that they will use discretion and good judgment.

According to legal scholars, the statutory language in the Clean Air Act is mandatory and does not leave any room for EPA to exercise discretion or create exceptions.

The only jobs that will be created are in law firms as the litigation bonanza begins. EPA will be sued by environmental groups wanting to eliminate exempted sectors. The EPA will also be sued by industries not exempted.

It will, as Democrat Congressman JOHN DINGELL stated, be a glorious mess.

I have nothing personal against Mrs. McCarthy. I simply wanted an answer to a question, the same question Americans all across our country want answered: How are you going to protect them?

I still do not have a credible answer to this question. I am tired of the stonewalling.

Mrs. McCarthy believes that she can not answer the question until she is confirmed by the Senate. That answer, I believe, is not good enough.

She has also stated that she wanted to be informed of any potential lawsuit. She stated she wanted to discuss the issue with the litigants in the hopes of convincing them not to sue.

Government officials can't go around the country trying to convince every litigant, whether it be a national environmental group or a local group, not to sue.

I have also posed this same question to the EPA Administrator in the hopes that she could provide EPA's plan on behalf of Ms. McCarthy.

EPA Administrator Lisa Jackson says that she can target what she regulates. She claims she will only target cars and trucks.

That is setting the precedent of picking winners and losers. We do not know what standards will be applied to make those decisions. We do not know what role politics will play in these decisions.

Administrator Jackson's statement also ignores the regulatory cascade that the endangerment finding and the motor vehicle emission standards will certainly trigger.

Litigators and courts will drive much of this job-killing regulation.

We have a nominee to head up the EPA's Air Office, Ms. Regina McCarthy. We have an Administrator of the EPA and we have a climate and energy czar who is supposed to coordinate climate change policy for the administration.

Carol Browner, the climate and energy czar has not been confirmed by Congress. We do not know who is developing a roadmap for how to use the Clean Air Act to regulate climate change.

What jobs in what industries will be kept? Which industries will be penalized? Who will be held accountable for making these decisions?

The economic consequences of the ticking timebomb will be devastating.

By the EPA's own estimate, the typical preconstruction permit in 2007 cost each applicant $125,000 and 866 hours to obtain.

Ranchers or private nursing homes have no background in this area. They will need to hire lawyers. They will need to hire experts. They will be taking time out of their day to figure out all this redtape.

This will create such a fog of uncertainty with investors and small businesses. This makes small businesses even riskier to lend money to; nobody will know how much this will cost their business.

With lending having already ground to a halt, this is hardly the right move to help our economy.

According to the U.S. Chamber of Commerce, there are 1.2 million schools, hospitals, nursing homes, farms, small businesses, and other commercial entities that would be vulnerable to new controls, monitoring, paperwork, and litigation.

If even 1 percent of the 1.2 million have to get preconstruction permits, that would mean 12,000 new preconstruction permits a year.

By the EPA's own analysis, if permitting is increased by just two to three thousand, this would impose ''significant new costs and an administrative burden on permitting authorities.''

According to the EPA, this ''could overwhelm permitting authorities.''

The net result of all of this will be thousands of jobs lost.

As I have stated previously on the floor, if the administration can not tell us by what legal authority they can pick winners and losers, if the administration can not provide economic certainty to lenders and businesses, if the administration does not know how they will deal with all the thousands of new preconstruction permits, they should take this job killing option off the table.

There appears to be such a frenzy of political pressure from special interests to pass something on climate change.

The pressure has reached the point where enacting any climate change policy before Copenhagen is more important than addressing its aftermath.

The thinking is, just get something done on climate change. We will deal with the impacts later.

That's not how you make good policy.

But that is exactly what is going on here.

The President's own attorneys, from a host of Federal agencies, have expressed concerns with this approach.

Their concerns were contained in a memo.

This memo is a well thought out, scientific and legal critique of using the Clean Air Act to regulate climate change by the Obama administration.

It confirms the fears of every small business owner, every farmer, school and hospital administrator, both large and small, that the Obama administration knows that using the Clean Air Act to regulate climate change is bad for America.

They know it, but for political reasons, they have ignored the science, the consequences to our economy and the impact to the American people.

The memo states, ''Making the decision to regulate CO_2 under the Clean Air Act for the first time is likely to have serious economic consequences for regulated entities throughout the U.S. economy, including small businesses and small communities. Should EPA later extend this finding to stationary sources, small businesses and institutions would be subject to costly regulatory programs.''

The document also highlights that EPA undertook no ''systemic risk analysis or cost-benefit analysis'' in making their endangerment finding.

The White House legal brief questions the link between the EPA's scientific technical endangerment proposal and the EPA's political summary.

EPA Administrator Jackson said in the endangerment summary that ''scientific findings in totality point to compelling evidence of human-induced climate change, and that serious risks and potential impacts to public health and welfare have been clearly identified . . .''

But the Obama administration's memo states that this is not accurate.

The memo actually questions the science behind designating CO_2 as a health threat stating the scientific data on which the agency relies are ''almost exclusively from non-EPA sources.''

The memo goes on to say the essential behaviors of greenhouse gases are ''not well determined'' and ''not well understood.''

This memo confirms that the administration has so far ignored its own advice.

What is somewhat surprising is that those who express these concerns are ridiculed or, even worse, attacked by administration officials.

In one instance, attempts were made by administration personnel to smear the reputation of a career employee at the Small Business Administration.

This was a person who offered a reasonable and thoughtful critique of the impact the endangerment finding has on small business.

This is unacceptable behavior by the administration.

Strangely enough, not just the authors of the Obama administration legal brief, but also environmental groups, disagree with EPA Administrator Jackson's position that a targeted approach under the Clean Air Act is legal and appropriate.

The Sierra Club's chief climate counsel stated last year that ''the Clean Air Act has language in there that is kind of all or nothing if CO_2 gets regulated and it could be unbelievably complicated and administratively nightmarish.''

I have warned the administration that groups such as these will sue the EPA if the EPA does not capture both large and small emitters. She has dismissed such threats. This is despite the Wall Street Journal report last month that a representative of the Center of Biological Diversity stated her group is prepared to sue for regulation of smaller emitters, such as farms, schools, hospitals, and nursing homes, if the EPA stops at simply the large emitters.

I have asked for a plan from the administration on how she will address losing court cases if the agency is sued for picking winners and losers. Her response in a committee hearing 3 weeks ago is she could not share with me any such plans in that forum.

I have posed the question to the administration: If you can't share information with the elected representatives of the 50 States, then in what forum, if not a Senate hearing, can you share the information?

I am confident the majority believes they have a strong chance at passing something along the lines of the Waxman-Markey bill this Congress regarding climate change. They are hopeful they can get something to the President for him to sign. If hope alone could pass legislation, we could all adjourn early. But hope is not certainty. The negative effects of the endangerment finding on the American economy is certain.

The bottom line is that the nominee, as well as Lisa Jackson and the administration, appears to have no credible plan to use the Clean Air Act in a way to regulate climate change.

There is only one responsible choice for us to make. Let us take this regulatory ticking timebomb off the table. This is why I plan to introduce a bill very soon that will take the Clean Air Act out of the business of regulating climate change.

I wish to give every Member an opportunity to join me in giving the Senate and the American people the time we need to forge a sound energy and climate strategy, a strategy that makes energy as clean as we can—and I am talking about American energy—as clean as we can, as fast as we can, without raising energy prices for American families.

Let's develop all of our energy resources—our wind, our solar, our geothermal, hydro, clean coal, nuclear, and natural gas. We need an ''all of the above'' strategy to address our Nation's needs. As Lisa Jackson, the EPA Director, stated on a recent trip to my home State of Wyoming, ''As a home of wind, coal, and natural gas, Wyoming is at the heart of America's energy future.'' That is because Wyoming has it all—coal, wind, natural gas, oil, and uranium for nuclear power. We have it all, and we need it all. I look forward to working with my colleagues, as well as Ms. Jackson, to make that happen.

Mr. President, I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Iowa.

EPA POLICIES

Mr. GRASSLEY. Mr. President, I wish to speak about Regina McCarthy's nomination but not about the nominee or her qualifications. Rather, I will highlight a few concerns I have with the EPA and the burdens being placed on those in rural areas and agriculture because of EPA actions.

A few weeks ago, I had the pleasure of joining President Obama for lunch. While the purpose of the lunch was to discuss health care reform, I took the opportunity to bring up a few concerns I have with EPA and agriculture. In particular, I raised four issues where EPA policies are causing tremendous concern and are burdening family farmers. The issues I raised to the President are indirect land use attributed to biofuels; second, fugitive dust; three, greenhouse gases and livestock producers; and, four, point source pollution permits.

Since that meeting with the President, I have had follow-on meetings with Nancy Sutley, chair of the Council on Environmental Quality and also the President's legislative staff. They heard me out. They seemed sympathetic to the concerns I raised. However, I am not sure the message is being relayed to the EPA bureaucrats.

The first issue pertains to a component of the new Renewable Fuels Standard that requires various biofuels to meet specified lifecycle greenhouse gas emission reductions. The law specifies that lifecycle greenhouse gas emissions are to include direct emissions and significant indirect emissions from indirect land use.

In the proposed rule changes released by EPA last week, they rely on incomplete science and inaccurate assumptions to penalize U.S. biofuels for so-called indirect land-use changes. The fact is, measuring indirect emissions of greenhouse gases is far from a perfect science. There is a great deal of complexity and uncertainty surrounding this issue. Because of this uncertainty, the EPA has committed to an open and transparent review by the public.

The EPA compiled a system of models to analyze land-use impacts of U.S. biofuels policies. They have indicated that these models have been peer reviewed and that they stand up to scientific scrutiny. That is true for the models independently, but—and a big but—it is not true for the way the EPA has overlaid and integrated their models. In addition, the models are not publicly accessible. There is inadequate data in how the models and data have integrated.

As it stands, stakeholders are unable to replicate the EPA's results. So this process is neither open nor is it transparent.

Under the EPA's analysis, ethanol produced from corn reduces greenhouse gas emissions by 16 percent compared to gasoline. However, if you remove the murky science of emissions from indirect land-use changes, corn ethanol reduces greenhouse gas emissions by 61 percent compared to the gasoline. So one can see that sound science plays a very important role in whether ethanol is more environmentally positive or less environmentally positive.

The EPA's models conclude that international land use contributes more in greenhouse gases than the entire direct emissions of ethanol production and use—from the growing of their crops, the production of ethanol at the refinery, up to and including tailpipe emissions. The ripple effects are greater than the direct effects. Wouldn't you think you ought to take more into consideration for the direct effects? The fact is, the model the EPA has cobbled together to measure indirect land use is far from scientific. It is more like a guess.

The rule indicates that itself by including the word ''uncertainty.'' Understand, this is an EPA rule that talks about the science of indirect land-use calculation, and it uses the word ''uncertainty'' more than 60 times.

Even larger in this debate is the role of common sense. It defies logic that the EPA would try to blame a farmer in my State of Iowa for the actions of farmers or developers in Brazil. Do they think Brazilians are waiting to see what I am going to plant on my farm, for instance, before they plant their crops in Brazil? It does not pass the commonsense test. The facts do not support it either.

During the past 5 years, when biodiesel and ethanol production in the United States ramped up, Brazilian soybean acres decreased and corn acres remained unchanged. See, there is no relationship.

Amazon deforestation has also fallen in the past 5 years. A recent study indicated that the primary reason for land clearing was for timber production and land grabbing, followed by cattle farming, not because of ethanol production in the United States. So nowhere on the list—we are talking about a list from a study—was U.S. biofuel production.

I think this debate comes down to a few simple questions: Do we want more production of green fuels or less production? Do we want greater dependency on Iran and Venezuela for energy needs or less dependence? Do we want to increase our national security by reducing foreign dependence on energy?

I don't think the people at EPA get the big picture, and I am pretty sure they don't understand how American agriculture works. While the EPA's actions have a significant impact on the rural economy and the agriculture industry, it is clear the EPA has a lack of understanding of American agriculture. I know this to be the case regarding the indirect land use.

Margo Oge, the Director of the office in charge of this rule, admitted during a committee hearing in the House of Representatives last month that she has never been on a farm in the United States. How can regulators with such a great impact on the agricultural industry have so little understanding of the industry they are regulating? We need to encourage some commonsense thinking in EPA. So I have invited Administrator Lisa Jackson and a number of EPA officials to come to Iowa to visit a farm, to see firsthand how the agricultural industry works.

I have also invited Regina McCarthy, who should be confirmed by the Senate today. She will be Assistant Administrator for the Office of Air and Radiation. I have also invited Margo Oge, the Director I referred to, the Director of the Office of Transportation and Air Quality, the office that wrote these regulations on indirect land-use changes.

Another issue I brought up with the President that I am concerned about is EPA's attempt to regulate particulate matter.

In 2007, the EPA published the ''Clean Air Fine Particle Implementation Rule'' in which the EPA inappropriately opted for the administrative convenience of regulating all particles that fall within the fine PM size range the same, including dust.

Instead they should have appropriately based the regulation on particle composition.

Essentially, this rule treats dust as though it were cigarette smoke, causing the same adverse health issues.

There are no scientific studies that show this to be the fact. Controlling dust from combining soybeans, gravel roads, and feedlots is impossible.

When it comes to a rule in the EPA that you have to keep dust on your farm within the property lines of your farm, think how nonsensical that approach is. Only God determines when the wind blows and only God determines when soybeans have 13 percent moisture and they have to be harvested immediately. We cannot make decisions based on EPA rules of when the wind blows or doesn't. God makes that decision.

Compliance with the more stringent fine PM standard will be unattainable for many farmers and ranchers.

The fine PM standard is health-based and must be met at the property line of each individual operation regardless of cost.

This could essentially require farmers to sell some of their cattle, combine wet crops, or wall in their roads and driveways.

This would be a ridiculous way to regulate agriculture.

The next concern I have with the EPA is their decision not to appeal a Sixth Circuit decision which vacated an EPA rule that exempted pesticides applied under the Clean Water Act.

The EPA rule in question had exempted pesticides applied near or into waters of the United States from obtaining permits when applied in accordance with the Federal Insecticide Fungicide, and Rodenticide Act.

In vacating the rule, the court issued an opinion declaring that agricultural sprayers and nozzles are point-source conveyances and that all residues and excesses of chemical pesticides that remain in water after the beneficial use is completed are ''pollutants'' under the Clean Water Act.

I share concerns of many who represent agricultural states as to how the EPA is going to implement the new permitting process without creating a burden on our farmers.

Producers could face legal liability if a permit is not issued quickly, yet the farmer needs to spray immediately.

I urge the EPA to draft a flexible rule that does not impede a producer's ability to apply pesticides and allows emergency application to be done expeditiously.

If they don't, we are going to have major problems on our farms when bugs, weeds, and disease show up.

The final issue is related to some of Senator BARRASSO's concerns with the nominee we are considering. That is, the direction the EPA is heading toward regulation of greenhouse gases under the Clean Air Act.

While this could have wide ranging, unforeseen effects on all sorts of small businesses, I want to talk about how agriculture could be affected.

The Clean Air Act was designed for more traditional types of pollution that can have a direct negative effect on human health and the environment in relatively small quantities.

Given the emissions thresholds in the law, a family farm cattle operation, for example, could be considered an emitter just like a factory smokestack, with all the red tape and costs that entails.

And, at the end of the day, how are you going to get cows to stop passing gas?

Nancy Sutley assured me that EPA has no desire to regulate livestock emissions in this way.

However, Senator BARRASSO raises some good points about what would happen should environmental groups follow through on their threats to sue EPA to force them to regulate sources as small as family farms.

Rather than rely on EPA's assurances, I would like these questions answered before EPA goes any further down this road.

I am hoping that a visit to the heartland will help them better understand the real world implications of some of their decisions.

They owe it to the hardworking farmers and ranchers to get a better understanding of how U.S. agriculture works.

Hopefully, they will realize a little common sense will go a long way when making broad policy decisions that affect the farmers who put food on their table.

The ACTING PRESIDENT pro tempore. The Senator from Wisconsin.

RAILROAD ANTITRUST ENFORCEMENT ACT

Mr. KOHL. Mr. President, I rise to speak about an agreement we have reached with Senator ROCKEFELLER regarding today's planned consideration of the Railroad Antitrust Enforcement Act. Before describing our agreement, I would like to say a few words about this legislation.

We believe this legislation is essential to restoring competition to the Nation's crucial freight railroad sector. Freight railroads are essential to shipping a myriad of vital goods—everything from coal used to generate electricity to grain used for basic foodstuffs. But for decades, the freight railroads have been insulated from the normal rules of competition followed by almost all other parts of our economy because of their outmoded and unwarranted antitrust exemptions. Our legislation is designed to eliminate the obsolete antitrust exemptions that protect freight railroads from competition.

This bipartisan legislation has 11 cosponsors, including members of both the Judiciary Committee and Commerce Committee, and was reported out of the Judiciary Committee on a unanimous 14-to-0 vote in March.

The railroad industry's obsolete antitrust exemptions resulted in higher prices to millions of consumers every day. Consolidation in the railroad industry in recent years has resulted in only four class I railroads providing nearly 90 percent of the Nation's freight rail transportation. Three decades ago, by contrast, there were 42 class I railroads. A 2006 GAO report found shippers in many geographic areas ''may be paying excessive rates due to a lack of competition in these markets.''

The ill-advised effects of these consolidations are exemplified by the high prices paid by captive shippers; namely, industries served by only one railroad. A recent study by the Consumer Federation of America found that rail shipping rates for captive shippers are $3 billion higher than they would be if the market were competitive. These unjustified cost increases cause consumers to suffer higher electricity bills because a utility must pay for the high cost of transporting coal, results in higher prices for goods produced by manufacturers who rely on railroads to transport raw materials, reduces earnings for American farmers who ship their products by rail, and raises food prices paid by consumers.

Repeal of the railroad antitrust exemption is supported by the attorneys general of 20 States and a wide range of consumer organizations and leading industry trade organizations, including the American Public Power Association, the American Chemistry Council, the National Farmers Union, the American Corn Growers Association, and the National Industrial Transportation League, as well as many more.

Once their outmoded antitrust exemptions are removed, railroads will be subject to the same laws as the rest of the economy. Government antitrust enforcers will finally have the tools to prevent anticompetitive transactions and practices by railroads. Likewise, private parties will be able to utilize the antitrust laws to deter anticompetitive conduct and to seek redress for their grievances. On the Antitrust Subcommittee, we have seen that in industry after industry, vigorous application of our Nation's antitrust laws is the best way to eliminate barriers to competition, to end monopolistic behavior, and to keep prices low and quality of service high. The railroad industry is no different. All those who rely on railroads to ship their products deserve the full application of the antitrust laws to end the anticompetitive abuses all too prevalent in this industry today.

That is why I am so pleased by the agreement that I have reached today with Senator ROCKEFELLER. He has agreed to include this necessary repeal of the railroads' unwarranted antitrust exemption in his comprehensive bill to reform the freight rail industry and the Surface Transportation Board when that bill is introduced in the coming weeks. Senator ROCKEFELLER has also agreed that his comprehensive rail reform bill will address a specific railroad practice that is of great concern to me—a practice known as paper barriers. He has pledged that his legislation will give the STB enhanced power to address this issue so that shippers are not denied the benefit of competition in relation to these arrangements. With this agreement, we have avoided a potentially divisive floor debate and we have the solid support of the distinguished chairman of the Commerce Committee for repealing the antitrust exemption and addressing paper barriers.

I thank my friend from West Virginia for his compromise as well as his support for the need to reform the freight rail system in the United States in the interest of all parties, including rail shippers and consumers.

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

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

The assistant bill clerk proceeded to call the roll.

Mrs. BOXER. 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.

NOMINATION OF REGINA McCARTHY

Mrs. BOXER. Mr. President, as chairman of the Environment and Public Works Committee, I look forward to the Senate's vote this morning on the confirmation of Regina McCarthy to be Assistant Administrator of the Office of Air and Radiation at the Environmental Protection Agency. I am happy to report to the Senate that my ranking member, Senator INHOFE, supports her as well, and he wanted to make that point.

The Assistant Administrator for Air and Radiation plays a crucial role in developing and improving programs that better protect public health and the environment, and she also will help address critical threats to our families and our communities. Regina McCarthy is very qualified to be Assistant Administrator. She comes to this position with a stellar record of achievement. During her hearing before the EPW, she impressed us all with her deep firsthand knowledge of clean air policy. She has three decades of experience in public service. She has a unique record of accomplishments in addressing air pollution at the State level in Massachusetts as well as Connecticut.

Here is the thing: She will bring a spirit of bipartisanship to this critical EPA office that is focused on protecting public health and the environment. In Massachusetts, Regina McCarthy served under Governors Cellucci and Romney, both Republicans. She served as Assistant Secretary for Policy at the Office of Environmental Protection and Deputy Secretary of the Office of Commonwealth Development. In 2005, Republican Governor Jodi Rell of Connecticut—another Republican—appointed Regina to be Commissioner of Connecticut's Department of Environment. So Regina's ability to work with people on both sides of the aisle is clear. She wants to solve the serious air pollution problems facing our families and communities, and I believe her experience in a bipartisan world will greatly help her.

California faces some of the most dangerous air pollution in the country. My State is a magnificent State, but it has its problems because we have the busiest ports in the Nation. We actually are responsible for taking care of 40 percent of the Nation's imports, and those goods are brought into our ports by ships that, unfortunately, still use—many of them—a highly polluting fuel called bunker fuel. And when we look at the rates of cancer across this Nation, you see clusters of cancer at all of our ports, and a lot certainly at our ports in California.

I worry very much about those families. We have been able to work in a bipartisan way—although not quickly enough, in my view—to make sure that these ships get away from this bunker fuel, and actually we are working very hard with the Obama administration, as we did with the Bush administration, on international treaties to move us away from this very polluting bunker fuel. So we are making great progress there, but we still have a lot of the trucks at our ports. We are working closely with, in this case, Los

Angeles, where they have a very cutting edge program to move away from the dirty trucks, and we are fighting hard to get that program to move forward.

So we look at the ports and we know there are problems, and we look at the highways, and we know there are problems. In my State, and other States, where we have valleys, the dirty air is trapped into those areas. So as a Senator from California, I welcome Regina McCarthy to this job, because, frankly, we need to do much more about the quality of the air, or lack of same, across the country.

The California Air Resources Board estimates that diesel emissions contribute to 2,000 premature deaths each year, and that the health costs of diesel emissions are billions of dollars each year. So I want to say again, we are talking about 2,000 premature deaths each year when we talk about dirty air. We are not just saying we are upset because you can start to see the air and it looks terrible; we are saying that this dirty air is being breathed in by our kids, by our grandkids, by pregnant women, by people with disabilities, and only the strongest survive on this. So we know it is a problem, and Regina McCarthy gets it. Her job isn't to be a robot, her job is to understand that the situation is dire here—2,000 premature deaths a year because of dirty air. And that is just from diesel emissions. So we need an assistant administrator on air who has the experience, the expertise, and the ability to work with communities large and small, to work with industry, and to work with government to find lasting solutions.

One of the opportunities we have here, separate and apart from the enforcement of the Clean Air Act—which will be under her domain—is to pass global warming legislation which will move us away from the dirty sources of fuel toward clean energy and, by the way, create long-lasting clean energy jobs which will stay here and boost our economy forward.

We have a lot of work ahead of us on this committee which I am so privileged to chair, and certainly right here in the Senate, and we are going to call on Regina McCarthy. She is well qualified, she has the ability to work with communities and industry, and she is the right person for this job.

I am disappointed that we had a colleague of ours hold her nomination up, you know, week after week after week. It should have been done. But today it looks good that we are moving forward. I hope we can do it by voice vote, and again I want to point out that in terms of Regina McCarthy's nomination, Senator INHOFE, the ranking member on the committee, supports her for this job, as do I. And I think that is the best thing I could say for a nominee, because oftentimes we find ourselves at loggerheads. But in this case, we are together.

I thank the Presiding Officer, I urge approval of her, and I hope we can do this by voice vote.

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

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

The assistant bill clerk proceeded to call the roll.

Mrs. BOXER. I ask unanimous consent that the order for the quorum call be rescinded.

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

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Morning business is closed.

EXECUTIVE SESSION

NOMINATION OF REGINA McCARTHY TO BE AN ASSISTANT ADMINISTRATOR OF THE ENVIRONMENTAL PROTECTION AGENCY

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will proceed to executive session to consider the following nomination, which the clerk will report.

The legislative clerk read the nomination of Regina McCarthy, of Massachusetts, to be an Assistant Administrator of the Environmental Protection Agency.

Mr. LIEBERMAN. Mr. President, I rise today to express my strong support for the confirmation of Gina McCarthy to head the Office of Air and Radiation at the Environmental Protection Agency. I have had the opportunity to work with and get to know Ms. McCarthy during her tenure as the commissioner of Connecticut's Department of Environmental Protection. Ms. McCarthy has worked tirelessly to make Connecticut's air, land and water cleaner, which in turn has made Connecticut the wonderful place it is today to live, work and raise a family.

Among her achievements, I would like to highlight Ms. McCarthy's pioneering work to address climate change in New England. She is widely recognized as a chief engineer of the very successful Regional Greenhouse Gas Initiative. Since her appointment in 2004, Ms. McCarthy has worked to dramatically improve Connecticut's environment. She has restored and defended the integrity of many of Connecticut's most cherished natural treasures. She devoted herself to protecting Long Island Sound, a source of nourishment and recreation to the millions who live and work along its coastline. As commissioner, Ms. McCarthy devised strategies for dealing with our State's solid waste, and she worked to improve Connecticut's air quality. She also made great strides to reinvigorate our parks and open spaces.

Gina arrived in Connecticut with a wealth of experience after holding a number of health and environmental positions in Massachusetts at the local, State and Federal levels. She worked for the Stoughton Board of Health and Conservation, Massachusetts' Hazardous Waste Facility Site Safety Council, the Massachusetts Toxics Use Reduction Program and the New England Governor's Environment Committee. Ms. McCarthy also served as the under secretary of policy at the Massachusetts Executive Office of Environmental Affairs and as the deputy secretary of operations to the Office for Commonwealth Development where she oversaw the development and implementation of Massachusetts' first Climate Protection Action Plan.

We have been lucky to have Gina in Connecticut and I am excited that the entire country will now benefit from her talents at the EPA. In her new position, Ms. McCarthy will be responsible for developing national programs, technical policies and regulations to control air pollution and prevent exposure to radiation. She will continue her work to address climate change and improve energy efficiency—a double charge that is both timely and imperative to the continued health of our planet. She will also develop strategies to reduce industrial and vehicle-generated air pollution as she works to improve indoor and outdoor air quality. I am excited to have someone of Ms. McCarthy's character and credentials leading these essential efforts and I am filled with confidence in her ability to address them productively.

I strongly support the nomination of Gina McCarthy to head the EPA's Office of Air and Radiation and urge my colleagues to do the same.

Mr. DODD. Mr. President, I rise today in support of the nomination of Regina McCarthy to be Assistant Administrator for Air and Radiation at the Environmental Protection Agency. I would also like to thank Chairman BOXER and the members of the Environment and Public Works Committee for their support of this excellent and deserving nominee. While I think it is regrettable that her confirmation was delayed for so long, I am glad that she will soon be able to get to work on finding solutions to the many important environmental issues facing our nation.

I congratulate President Obama on nominating such a remarkably qualified, energetic, and passionate individual to serve as Assistant Administrator. Commissioner McCarthy has 25 years of experience working at all levels of local and State government and has a depth and breadth of knowledge on environmental issues that few can rival. She has also served under both Democratic and Republican Governors, in Massachusetts as well as my home State of Connecticut. In both States and in all capacities, Gina has been universally recognized as a uniquely talented environmental advocate.

As commissioner of Connecticut's Department of Environmental Protection since 2004, Gina has amassed an impressive record of accomplishments. She spearheaded the ''No Child Left Inside'' initiative in Connecticut and nationwide, which combines environmental education with numerous outdoor programs to promote physical activity while teaching kids to become good stewards of the environment. She has also been a key proponent of sustainable economic development in Connecticut, has worked tirelessly to reinvigorate our State park system, and has been a terrific advocate for open space and conservation initiatives.

Perhaps most prominently, Commissioner McCarthy was one of the driving forces behind the creation of the Regional Greenhouse Gas Initiative, RGGI, the Nation's first mandatory cap and trade program, which was adopted by 10 States in the Northeast to address the grave threat of climate change. The commissioner's work on the issue of climate change has been recognized and lauded nationally, and her experience will be invaluable when she is confirmed as Assistant Administrator for Air and Radiation. President Obama has made it clear that addressing climate change is a top priority for his administration, and as Assistant Administrator, Gina will play a vital role in developing and implementing policies to control greenhouse gas emissions.

In my view, this incredible list of accomplishments does not do justice to the qualities Gina will bring to her new position once she is confirmed. Across my State she has a well-deserved reputation for her boundless energy, incredible passion and determination, and willingness to speak frankly in order to address challenges head on.

Indeed, she has made such an enormous impact that on March 14, the Hartford Courant ran an editorial entitled ''DEP Chief Gina McCarthy a Hard Act to Follow,'' which praised both her passion for the issues and her pragmatic approach. The Courant specifically noted her ability to revitalize a department which had lost the public's trust and engage people across the State in preserving Connecticut's landscape and Long Island Sound.

Once again, I congratulate Gina McCarthy and strongly urge all my colleagues to support her nomination. Connecticut's loss is a win for our Nation. And, while we are sad to see her leave Connecticut, I am confident that Gina will continue to be the outstanding advocate for the environment and public health she has always been and I look forward to working with her in her new capacity at the EPA.

The ACTING PRESIDENT pro tempore. The question is, Will the Senate advise and consent to the nomination of Regina McCarthy, of Massachusetts, to be an Assistant Administrator of the Environmental Protection Agency?

The nomination was confirmed.

The ACTING PRESIDENT pro tempore. Under the previous order, the motion to reconsider is laid upon the table, and the President will be immediately notified of the Senate's action.

LEGISLATIVE SESSION

The ACTING PRESIDENT pro tempore. The Senate will resume legislative session.

FAMILY SMOKING PREVENTION AND TOBACCO CONTROL ACT—MOTION TO PROCEED

CLOTURE MOTION

The ACTING PRESIDENT pro tempore. Under the previous order, pursuant to rule XXII, the clerk will report the motion to invoke cloture.

The 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 the motion to proceed to Calendar No. 47, H.R. 1256, the Family Smoking Prevention and Tobacco Control Act.

Harry Reid, Tom Harkin, Edward E. Kaufman, Mark Begich, Bernard Sanders, Michael F. Bennet, Mark Udall, Patty Murray, Claire McCaskill, Carl Levin, Jack Reed, Sheldon Whitehouse, Christopher J. Dodd, Jeff Merkley, Robert Menendez, Charles E. Schumer, Max Baucus.

Mr. ENZI. Mr. President, today the Senate will vote on cloture on the motion to proceed on H.R. 1256, the Family Smoking Prevention and Tobacco Control Act.

Full and fair debate is one of the hallmarks of American democracy and the Senate in particular. All we are voting on today is whether we are going to get to debate, not whether we are going to have FDA regulation of tobacco. But if this vote does not get 60 votes, we will not have the opportunity in this Congress to see whether we can take real steps to curb tobacco use.

Whether you are for this bill or against it, I urge you to support cloture on the motion to proceed. We cannot get to substantive amendments and improvements to the bill until we have cloture on the motion to proceed.

I will have a number of amendments to improve this bill and fight the scourge of tobacco use and its deadly health consequences. In order to get to offer my amendments, I will support cloture on the motion to proceed, and I urge my colleagues to do the same.

The ACTING PRESIDENT pro tempore. By unanimous consent, the mandatory quorum call has been waived.

The question is, Is it the sense of the Senate that debate on the motion to proceed to H.R. 1256, the Family Smoking Prevention and Tobacco Control Act, shall be brought to a close?

The yeas and nays are mandatory under the rule.

The clerk will call the roll.

The legislative clerk called the roll.

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

Mr. KYL. The following Senator is necessarily absent: the Senator from Florida (Mr. MARTINEZ).

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

The yeas and nays resulted—yeas 84, nays 11, as follows:

[Rollcall Vote No. 203 Leg.]

YEAS—84

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

NAYS—11

Bond	Coburn	Inhofe
Brownback	DeMint	McConnell
Bunning	Hagan	Roberts
Burr	Hatch	

NOT VOTING—4

Begich	Kennedy
Byrd	Martinez

The PRESIDING OFFICER. On this vote, the yeas are 84, the nays are 11. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to.

The Senator from Connecticut.

Mr. DODD. Madam President, I rise in support of S. 982, the Family Smoking Prevention and Tobacco Control Act, the matter that is before the Senate. This bill would give the Food and Drug Administration the authority to regulate the tobacco industry and put in place the tough protections for families that for too long have been absent when it comes to how cigarettes are marketed to our youngest citizens—our children.

This is an issue that many in this Chamber have worked on for a long time. For those who have been here for some time, this issue is not a new issue. It has been before the Congress now for over a decade, and for various reasons along the way—the other body has adopted this bill or we have adopted the bill but not at the same time the other Chamber has; the committees have acted but never in the same year or in the same Congress—so we have had sort of a disjointed process that has never brought the other Chamber and this one together around the importance of this legislation.

So once again we are here, this time I think with the greatest opportunity to do something I believe most Members—I cannot believe anyone in this Chamber could be adverse to the notion we ought to do everything in our power to limit the 3,000 to 4,000 children who every day—every single day—begin smoking in the United States.

Madam President, 400,000 of our fellow citizens die every year because of smoking-related illnesses. We are about to begin, in a few weeks, a debate on health care. One of the major provisions of that effort will be in the area of prevention. There are a lot of divisions I suppose about how we ought to proceed with health care, but as I have listened over the last number of months to our colleagues talk about health care reform, one issue—one issue—enjoys almost unanimous support; and that is, what can we do to reduce chronic illness in the country? How do we do a better job of having a health care system, not a sick care system? How do we prevent people from acquiring or contracting these illnesses that are so debilitating and so costly? One of them is, obviously, smoking-related illnesses and the 400,000 who die every year.

The one certain way is to try to limit the number of people who begin smoking every day; that is, our youngest citizens, our children. That is what this bill is all about. It comes down to simply that. We will have a long debate about various provisions in this bill, but in the final analysis, we will have to decide in the coming day or two whether, for the first time—the very first time—the Food and Drug Administration of our Nation will have the power and the capability to regulate tobacco products and begin to restrain—to restrain—the 3,000 to 4,000 who begin smoking every single day. So even in the 2 or 3 days we will debate this bill, keep in mind that during those 2 or 3 days, close to 10,000 children will begin smoking, 1,000 of whom will become addicted every day, and of that 1,000, anywhere from 300 to 500 will die. I have 76,000 children in my small State of Connecticut today who are going to die because of smoking-related illnesses, because they are already hooked and addicted to tobacco products. So there are a lot of things we debate and discuss and there is a lot of rhetoric and talk about protecting our children and protecting families, but here is an opportunity we have, as Democrats and Republicans coming together in common cause, to make a difference for literally millions of people in our country for years and years and years to come.

When the Supreme Court struck down the FDA's tobacco rule in 2000, it became very clear that legislation was going to be necessary in order to protect our children and the public health from deadly tobacco products. Eight years ago, I introduced comprehensive children's legislation that included, with the help of my good friend Senator HARKIN, the Kids Deserve Freedom From Tobacco Act to give the authority to the FDA over these products. In the 108th Congress, our colleague from Massachusetts, who has been a champion on this issue—who has been the leader and champion on this issue for literally years and years and years, Senator KENNEDY, and who is the major sponsor, by the way, of this legislation—was able to take this issue to the next level. He worked out a bipartisan bill called the Family Smoking Prevention and Tobacco Control Act with our colleague from Ohio, Senator MIKE DEWINE, Representatives HENRY WAXMAN, and TOM DAVIS of the other body and the other party, and other members of the HELP Committee on a bipartisan basis. The bill we consider today is virtually the same legislation that Senator KENNEDY and Senator MIKE DEWINE, HENRY WAXMAN and TOM DAVIS worked on before. It has a long history, having passed each Chamber, but never at the same time.

So allow me to share a little of that history with my colleagues as we enter this debate. In July of 2004, the Senate voted 78 to 15 to add it as an amendment to another bill; that is, this tobacco bill. Unfortunately, the language was removed in conference between the House and the Senate. Three months later, Senators KENNEDY and DEWINE reintroduced the legislation and it was passed by unanimous consent, but the other body did not consider it at that time. Refusing to give up, of course, as he always does—he never gives up—Senator KENNEDY reintroduced the bill in the 109th and the 110th Congresses. In August of 2007, the Health, Education, Labor and Pensions Committee, on which Senator ENZI and I serve, reported out this bill by a vote of 13 to 8. In July of 2008, the House passed a very similar bill by a margin of 326 to 102. Although the Senate version had 60 cosponsors, there was not enough time left in that year for the Senate to pass the House-passed legislation.

On April 2 of this year, the other body—the House—once again passed its version of this legislation, with very minor changes, by an overwhelming vote of 298 to 112.

The point I wish to make to my colleagues is simply this: Over the years, this bill has been reviewed, it has been vetted, it has been debated over and over. I think all of us, I would hope, agree that the time has come to act with uniformity in both Chambers, with the President committed to this issue to protect our Nation's children and pass this legislation into law.

Frankly, we can't afford to wait any longer. Every day, as I mentioned at the outset of these remarks, another 3,500 to 4,000 children are ensnared by tobacco companies that target them with impunity as they try smoking for the first time—every single day. One thousand of these children who will start today—that close to 4,000 across our country—will be addicted probably for life as smokers, and a third of that number will eventually die—if not more—from smoking-related diseases.

The tobacco industry is well aware of these numbers. They know that if they can't bring children into the process, then they won't have any more smokers. If you lose 400,000 people a year who lose their lives from smoking-related illnesses, then you have to replenish those numbers somehow. You can't lose 400,000 people every year, year after year, from smoking-related illnesses and not replenish the numbers. How do you do it? You do it by drawing in children, by getting kids to start smoking. That is why they have been so successful. When you get 3,000 to 4,000 every day—every day starting—40,000 in a 10-day period, then do the math yourself and you see what happens very quickly. You begin to replenish those numbers. If a quarter of that number remains addicted for life, you make up that 400,000 rather quickly and that doesn't include, by the way, the foreign sales of tobacco products. That is just right here in our country.

I would suspect that if you have been a smoker or are a smoker—and let me say in truth in everything, I was a smoker and I know how difficult it is to give up tobacco products. Anyone who tells you it is easy doesn't know what they are talking about. It is hard. It is difficult. It is extremely difficult. But even people who smoke, I will tell my colleagues, the one thing they pray every day is that their children will not begin it. In fact, I suspect some of the strongest advocates of this legislation are the people who have been hooked on tobacco products and they would tell you that the one thing they pray and hope is that their children don't become addicted to this product because they know how damaging it is. They know what it does to them. They know the potential harm to themselves and to their families. So this is not an issue, in my view, that ought to cause any division among parents and family members when it comes to what happens to their children.

Tobacco companies, as I say, are well aware of all of this. Almost 90 percent of smokers begin as children, and that is an astonishing figure. Equally astonishing is the fact that smoking kills more Americans every year than alcohol, AIDS, car accidents, illegal drug use, murders, and suicides combined. Take all of those causes of death in our Nation, combine all of them, and they don't equal the number of people who lose their lives as a result of tobacco-related illnesses.

In my home State of Connecticut, more than one in five high school students smokes. Every year, 15,000 children in my State try cigarettes for the fist time and another 4,600 become regular smokers. Absent action from our Congress, of course, more than 6 million children who are alive today will die from smoking, including the 76,000 I mentioned in my small State of Connecticut. This ought to be entirely unacceptable to all of us.

Here we are soon to begin a debate, as I said a few minutes ago, on health care, with the common cause of trying to create a health care system, not a sick care system, where prevention is going to be a major focus of our attention. I can't think of a more significant step we could take on the eve of dealing with the health care debate than having this Congress stand up with an overwhelming vote and say we are going to begin an effort here to reduce that 90 percent who end up beginning smoking over a lifetime—that is our children—and that is what this bill is designed to do.

If ever there was a moral obligation to act, I think it is at this moment. No one suggests that any law is going to stop every child—of course it won't—from lighting a cigarette or beginning that process. Obviously, parents have to do their part in educating their children, as do others. But we shouldn't be making it harder on them than it already is, which is precisely what we are doing every second that we fail to act on a bill such as this.

So the purpose of this historic public health legislation is very simple: It is to protect our children and give them a longer, healthier future—the future they deserve. It will give the Food and Drug Administration the authority to prevent the sale and marketing of tobacco to children, require changes to cigarettes to make them less harmful, and protect the public health, and to prevent tobacco companies from using misleading marketing practices to encourage tobacco use. It would accomplish this by prohibiting outdoor advertising within 1,000 feet of a school or playground. Parents ought not to live in fear that their children are being marketed cigarettes when they are at school every day. It would limit advertising in publications with significant youth readership to a black-on-white, text-only format; no pictures, mascots, or other eye-catching logos. It would restrict promotions that appeal to children and adolescents, and stop illegal sales of tobacco products to children and adolescents. Lastly, it would prohibit tobacco product vending machines except in adult-only facilities.

For this first time, the bill would regulate tobacco products, requiring all tobacco product manufacturers to register with the Food and Drug Administration and to provide that agency with a detailed product list. The legislation would assess user fees on manufacturers to pay for the cost of the FDA tobacco regulation. And it would mandate larger and far more informative health warnings on tobacco products, including prohibiting misleading terms such as ''light'' and ''mild'' on products that offer no health benefits whatsoever, and instead are intended to kill.

This bill is supported by over 1,000 organizations, including every major public health group in the United States: the Campaign for Tobacco Free Children, the American Cancer Society, the American Lung Association, the American Heart Association, and many others. Thirty national faith organizations and over 800 State and local organizations support this bill. In addition, former Secretaries of Health and Human Services, both Democrats and Republicans, including Tommy Thompson and Donna Shalala; former Surgeon Generals, Republicans and Democrats, David Satcher and Richard Carmona; David Kessler, the former FDA Commissioner; and Julie Gerberding, the former CDC Director, have all expressed their support of the legislation now before us.

In its 2007 report, ''Ending the Tobacco Problem: A Blueprint for the Nation,'' the Institute of Medicine urged Congress to: ''Confer upon the Food and Drug Administration broad regulatory authority over the manufacture, distribution, marketing and use of tobacco products.''

That is precisely what we give them in this bill. It deals with the manufacture, the distribution, and the marketing of tobacco products, particularly to our children.

Again, I hope my colleagues will gather behind this.

Lastly, let me say we would not be here on the cusp of winning this fight without the tireless efforts of our committee chairman, Senator TED KENNEDY of Massachusetts, who has made the public health the cause of his lifetime. It has been his passion over the past 40 years that he has been involved in his public career. This bill is but one more example of good policy he has shepherded through the Congress which puts children and their families and the public first. All of us ought to thank him for his leadership on this issue.

Passing this bill will be a historic victory for our Nation's children—protecting children from aggressive marketing by tobacco companies and establishing sound manufacturing practices of tobacco products. It will be an historic step for parents who have enough to worry about in today's day and age without having to be concerned that cigarettes are being marketed directly to them, or tobacco products designed in ways to be specifically appealing to the youngest of our citizens in this country. Parents deserve peace of mind when it comes to how dangerous tobacco products are being marketed. With this legislation, that is precisely what we are trying to do.

I will emphasize again, this is not going to stop all of the problems of children starting smoking every day, but if we can make a difference and cut those numbers down. Then we will have achieved a great deal for our Nation. This is an opportunity to do so.

I should point out as well, I am not unsympathetic at all to the tobacco States—the States that grow tobacco where literally thousands of farms, their livelihood, and jobs depend upon this industry. This bill takes into account the needs of those small family farmers to provide help to them as they transition. All of us know what it is like to be in a State where there are certain things that occur, products that are made, services provided where they could be adversely affected by changes through no fault of their own. This bill tries to accommodate, to the extent possible, the industries and the businesses in those States that would be adversely affected, obviously, by the reduction in the use of tobacco products by our citizenry as a whole. I think all of us here, and again particularly parents, whether you are a smoker or a nonsmoker—you ask any parent in this country whether they would like to see their children begin smoking—ask them that simple question. I don't care where you live, the last thing you want to see is your child begin a lifetime of use that you know is going to put their life in jeopardy from the moment they start. So if nothing else, as you think about this bill and you think about these amendments coming along, many of which may be appealing on a certain level, remember, we have tried for 10 years and we have failed. Think about how this bill might have made a difference 10 years ago, if it had been adopted, and how many young children might not have started because of the inclusions and the provisions in this bill.

We cannot wait for another Congress, another 2 or 4 or 5 years to get back to this again. This is the moment. This is the hour. This is the time when we can accomplish that kind of achievement. We have a chance to do something in a meaningful way, and I urge my colleagues to join us in this effort.

Let me also say this to my friend and colleague from Wyoming, who is a champion on this issue and cares deeply about it. We had a very good and extensive markup of the bill a couple of weeks ago. There are some outstanding amendments Senator ENZI has raised, and our staffs are working together to try to resolve those matters, as I promised we would, before we get to offering a substitute that may include some of the provisions we are in the business of trying to resolve. I thank him for his cooperation, and also the members of the committee, who stayed 2 days to mark up this legislation.

I commend my friend from Wyoming for his diligence in all of this, as he always demonstrates, and our colleagues on both sides of the committee, who worked on this legislation; I am grateful to them as well. I look forward to a good, healthy, and vibrant debate, with the final conclusion being strong support for this bill.

With that, I yield the floor.

The PRESIDING OFFICER. The Senator from Wyoming is recognized.

Mr. ENZI. Madam President, I rise today to talk against the deadly scourge of tobacco. Tobacco use is the leading preventable cause of death in the United States. We have to take some dramatic steps to reduce smoking.

Smoking killed my dad, my mom, and my mother-in-law, and secondhand smoking conclusively affected me. This isn't political; this is about the health of all Americans. This bill comes out of the Health, Education, Labor, and Pensions Committee. The Senator from Connecticut, Mr. DODD, mentioned that we don't want kids to start. We don't want anybody to start. There is enough information out there that can tell you that this will kill you. So don't do something that will kill you. Yes, it is a slow death; it may take a number of years, but it will kill you. Cancer is one of the big results of smoking.

I wish to share a little bit from a contract that an oncologist—a person who deals strictly in solving cancer and providing cancer treatment—makes his patients sign before he will treat them because if they keep smoking, they are adding to the problem, causing recurrences of the problem. It starts off this way:

Tobacco is a dangerous substance. It contains 50 carcinogens (cancer-causing substances) and is a Group A Carcinogen in the same class as asbestos and radon. It has many toxic substances besides cancer-causing agents; among these are insecticides which are used on the tobacco plant. In some parts of the country, tobacco is used as an industrial insecticide because of this composition. Tobacco use is considered the number 1 preventable cause of death in the world. On average, tobacco users live 35 years less than non-tobacco users.

I go on to quote:

Tobacco has been found to cause a multitude of cancer types, whether it is smoked or used in a smokeless fashion. Tobacco is the number one cause of cardiovascular disease leading to heart attack and strokes. Emphysema, chronic bronchitis, and many other diseases are a consequence.

When I care for patients, I expect them to be involved in the healing process, no matter what disease they are afflicted by. If they continue to smoke, they do not want to improve their health. Because of this, they can either discontinue tobacco and continue under my care, or find another health care provider.

Any tobacco user followed in our clinic will be given the opportunity for tobacco cessation (quitting the habit).

They work with them on that.

Tobacco users must discontinue tobacco use within 2 weeks of the initial consultation.

I ask unanimous consent that the entire contract be printed in the RECORD.

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

TOBACCO POLICY

(By Philip C. McMahill M.D.)

Tobacco is a dangerous substance. It contains 50 carcinogens (cancer causing substances) and is a Group A Carcinogen in the same class as asbestos and radon. It has many toxic substances besides cancer causing agents; among these are insecticides which are used on the tobacco plant. In some parts of the country, tobacco is used as an industrial insecticide because of this composition. Tobacco use is considered the number 1 preventable cause of death in the world. On average tobacco users live 35 years less than non tobacco users.

Tobacco has been found to cause a multitude of cancer types, whether it is smoked or used in a smokeless fashion. Tobacco is the number one cause of cardiovascular disease leading to heart attacks and strokes. Emphysema, chronic bronchitis, and many other diseases are a consequence.

When I care for patients, I expect them to be involved in the healing process, no matter what disease they are afflicted by. If they continue to smoke, they do not want to improve their health. Because of this, they can either discontinue tobacco and continue under my care, or find another health care provider.

Any tobacco user followed in our clinic will be given the opportunity for tobacco cessation (quitting the habit). Tobacco users must discontinue tobacco use within 2 weeks of the initial consultation.

Random urine nicotine testing is used to monitor patients. If a patient is positive on 3 urine nicotines, they must find another health care provider. If someone refuses nicotine testing on any given day, that counts as a positive urine nicotine. If a patient has a positive urine test and is on treatment, the treatment will be delayed for one week. Do not use nicotine products, such as patches or gum that may cause a positive urine test.

Patient Signature

Date

Mr. ENZI. Madam President, I did notice that in the last couple of weeks, a Federal appeals court has even looked at a landmark ruling that found that the Nation's top tobacco companies were guilty of racketeering and fraud for deceiving the public about the dangers of smoking. A three-judge panel of U.S. courts of appeals in Washington unanimously upheld requirements that manufacturers change the way they market cigarettes. The requirements, which have been on hold pending appeal, would ban labels such as low tar, light, ultra light, or mild, since such cigarettes have been found to be no safer than the others. That is one of the requirements in this bill—that they cannot use that kind of false advertising.

I wish to share some facts with you. The Senator from Connecticut shared some with you. These are from the Centers for Disease Control and Prevention. Among current U.S. adult smokers, 70 percent report they want to quit completely. In 2006, an estimated 19.2 million adult smokers had stopped smoking for at least 1 day during the preceding 12 months because they were trying to quit. That is more than 44 percent of the smokers. Think about it—70 percent of smokers want to quit, and 44 percent of them are trying each year. Unfortunately, not enough of them succeed. I know what a terribly addictive thing it is. I watched my parents deal with it. The numbers are even more shocking when we consider youth smokers. Nearly one in five young people smokes, but more than 54 percent of current high school smokers in the United States tried to quit smoking during the preceding year.

We need to get people to stop smoking or, better yet, never start. I support incentives to quit smoking—for example, offering incentives to lower health insurance premiums for those who stop smoking or, better yet, who never start. That becomes a continuing cost to us. The cost of health care is out of control. There seems to be support in the context of health care reform.

Full, fair, and open debate is critical to the democratic process. I am pleased to have the opportunity this week to offer amendments to this bill to help lessen the toll tobacco takes on our society. Senator DODD mentioned the committee action. We have a committee that works a little differently from some of the others. We look at that opportunity of the committee process to see what the key concerns are and to see how they can be incorporated into making a better bill. That is what Congress is about. That is why we have 100 people here and 435 on the other end of the building, so that we get a lot of backgrounds, opinions, and ideas, so that can avoid unintended consequences and tighten up processes so that what we are trying to do can actually get done.

I appreciate the way this bill has been worked on. One of the things we did, of course, was leave about six amendments to be worked on in the interim, before we actually get to amendments on this bill. I am hopeful those can be worked out so they will tighten up the bill a little bit more.

This Congress does have a unique opportunity to have an impact on smoking and health consequences. My record is clear when it comes to tobacco. I am no friend of big tobacco. I have never taken a dime of tobacco company money for my campaigns, and I don't intend to start now. I have ideas to make a real impact on the public health and win the war on tobacco.

I thank the Senator and all those on the other side of the aisle for the serious consideration they are giving the bill and the opportunity now to have the floor debate. I am hoping we will stick to germane issues so that it will stay a tobacco bill. That is the only way we will actually reach a conclusion on it.

I hope the ideas presented with the goal of making this a better bill will get serious consideration. I am sure they will. I encourage people to bring those ideas forward and, if they will, talk to us a little bit before they put them in to see if they are already under consideration as opposed to already in the bill.

I am thankful for this opportunity. I am glad that the bill is being brought to the floor and that it went through the regular process. I hope something good can come out of this. We need to make sure what we are doing will stop smoking.

I yield the floor.

The PRESIDING OFFICER. The Senator from Connecticut is recognized.

Mr. DODD. Madam President, I thank my colleague from Wyoming for his eloquent comments and his commitment to the issue.

Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. DODD. Madam President, I ask unanimous consent that during today's session the recess time for the caucus luncheon period and any period of morning business be counted postcloture.

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

RECESS

Mr. DODD. Madam President, I ask unanimous consent that the Senate stand in recess under the previous order.

There being no objection, the Senate, at 12:21 p.m., recessed until 2:15 p.m. and reassembled when called to order by the Acting President pro tempore.

FAMILY SMOKING PREVENTION AND TOBACCO CONTROL ACT—MOTION TO PROCEED—Continued

The ACTING PRESIDENT pro tempore. The Senator from Tennessee.

NUCLEAR POWER

Mr. ALEXANDER. Mr. President, 1 year ago I went to the Oak Ridge National Laboratory in Tennessee to propose a new Manhattan Project to put America on the path to clean energy independence. The project would focus on seven grand challenges: plug-in electric cars and trucks, carbon capture from coal plants, making solar power cost competitive; recycling used nuclear fuel, advanced biofuels from crops we don't eat, green buildings, and fusion. Last week I went back to Oak Ridge, spoke to a gathering, a summit of people from several States who were meeting to talk about how to attract and keep high technology jobs. I proposed that the United States should build 100 new nuclear plants during the next 20 years, while scientists and engineers figure out the grand challenges I discussed 1 year ago. This would double America's nuclear powerplants which today produce 20 percent of all of our electricity and 70 percent of our pollution-free, carbon-free electricity. This is an aggressive goal. But with Presidential leadership, it could happen. I am convinced it should happen. Conservation and nuclear power are the only real alternatives we have today to produce enough low-cost, reliable, clean electricity to clean the air, deal with climate change, and keep good jobs from going overseas. Climate change may be the inconvenient problem of the day, but nuclear power is, for many skeptics, the inconvenient answer. These nuclear skeptics cite regulatory delays and past problems with safety. They appoint commissions to slow walk decisions about recycling used nuclear fuel. They point to the shortage of welders for new plants. They complain that Japan and France are building most of the essential equipment for new nuclear plants. No surprise, since Japan is building 1 nuclear plant a year, and France is producing 80 percent of all of its electricity from nuclear powerplants. The skeptics say that carbon from coal plants contributes to climate change, which is true, and so they offer their solution: operate our big complex country, which uses 25 percent of all of the energy in the world, on electricity generated from the wind, the sun, and the Earth. One day that might be possible. But today there is a huge energy gap between the renewable electricity we wish to have and the reliable, low-cost electricity that we must have. My guess is, it will be 30 or 40 or 50 years before these new sources of electricity are cheap enough and reliable enough to supply most of the power to our electric grid.

The nuclear skeptics in Congress, urged by the President, reported last month an energy and climate change bill that would require 20 percent of our electricity to be made from a very narrow definition of renewable energy. My visit to Oak Ridge was to a gathering to discuss how to attract and keep high tech jobs in the region. I tried to paint a picture for those attending about how this legislation would affect those who attended.

To put things in perspective, the Tennessee Valley Authority produces an average of about 27,000 megawatts of electricity for industrial and household customers in our seven-State region. Sixty percent comes from coal, 30 percent from nuclear, 8 percent from hydroelectric power, and 1 percent from natural gas. Across the country, it is 50 percent coal, 20 percent nuclear, 20 percent natural gas, and 6 percent hydroelectric power. Nationally, only about 1½ percent of electricity comes from the Sun, the wind, and the Earth. Almost none of the TVA's power does. But the 40 percent of TVA power that comes from nuclear and hydro plants is just as clean as these narrowly defined renewables. It is free of pollution that dirties the air, and it is free of carbon that contributes to global warming. In that sense, TVA is the sixteenth cleanest utility in the country already.

Here is another yardstick. The new nuclear powerplant at Watts Bar in Tennessee can produce 1,240 megawatts of electricity. The Bull Run coal plant produces about 870 megawatts; the Fort Loudoun Dam, 150 megawatts. All three operate almost all the time. This is called base load power, which is important since large amounts of power can't be stored. Some forget that solar power is only available when the Sun shines and wind power is only available when the wind blows.

So how much renewable electricity is available in our region? The new solar plant our Governor Phil Bredesen has proposed in Haywood County would cover 20 acres but produce just 5 megawatts. The 18 big wind turbines atop Buffalo Mountain, a few miles away from where I made my speech, have the capacity to produce 29 megawatts but actually produce only 6 megawatts. It may be also possible to squeeze a few hundred megawatts from turbines in the Mississippi River. The Southern Company's new biomass plant in Georgia—biomass is sort of a controlled bonfire of waste wood products—would produce 96 megawatts. All this for a utility that needs 27,000 megawatts to operate at any given time.

Each of these sources of renewable energy consumes a lot of space. For example, the big solar thermal plants in the western desert where they line up mirrors to focus the Sun's rays take more than 30 square miles—that is more than 5 miles on a side—to produce the same 1,000 megawatts that one can get from a single coal or single nuclear plant that sits on one square mile. Or take wind, to generate the same 1,000 megawatts with wind, one would need 270 square miles. That is 16 miles on a side. An unbroken line of wind turbines 50 stories high from Chattanooga to Bristol would give us only one-fourth of the electricity we get from one unit of the Watts Bar nuclear powerplant which fits on one square mile, and we would still need the nuclear powerplant for the times when the wind doesn't blow. There is good reason why there is only one wind farm in the entire southern United States. In our region, the wind blows less than 20 percent of the time. Much of that time is at night when TVA already has several thousand megawatts of unused electricity.

Biomass will be a renewable source that we will emphasize in the South, we are told. That's a good idea. It might reduce forest fires, and it will conserve resources. The National Forest Service told us last week that there are 2 million tons of wood scraps and dead trees in Tennessee's forests, and pulp and paper companies might produce another 2 million tons. That sounds like a lot. But let's not expect too much. We would need a forest the size of the entire 550,000-acre Great Smoky Mountain National Park to feed a 1,000-megawatt biomass plant on a sustained basis. That is a plant that would produce as much electricity as one nuclear power unit.

Think of the energy it is going to take to haul this around. Georgia Southern says it will take 160 to 180 trucks a day to feed biomass into a 96-megawatt electrical plant. Remember, TVA uses at least 27,000 megawatts of electricity every day.

Of course, conservation and efficiency are the places to start when looking at America's and, especially, Tennessee's electricity futures. Tennesseans use more electricity per person than residents of any other State. If we reduced our use to the national

average, it would equal the electricity produced by four nuclear powerplants. We might still have to build some new powerplants, because our history and that of the country is that conservation only limits electricity growth. It usually doesn't reduce it. For example, 20 years ago we never would have guessed that computers would be using nearly 5 percent of our electricity. One can see we will need some breakthroughs, something like a new Manhattan project, before we can rely very much on renewable electricity.

Of all these forms of electricity in our region, solar has the most promise. It takes up massive space, but we can use rooftops. It only works when the Sun shines, but the Sun shines during peak times of electricity use. I believe our Governor is exactly right to try to make Tennessee a hub for solar power. The first grand challenge of my proposed Manhattan project is to try to make solar power cost competitive. According to TVA, in our region, it is far from that today. Solar costs four to five times as much as the base load electricity that TVA now produces. Wind power, on the other hand, can supplement electricity on the Great Plains and perhaps offshore. But for our region, it would be a terrible mistake.

In Tennessee it is a waste of money, and it destroys the environment in the name of saving the environment. The turbines are three times as tall as Neyland Stadium, which is our great big football stadium in Knoxville. In our region they only work on mountaintops where the winds are strongest, and they barely work there. I haven't mentioned the new transmission lines that will be necessary from the mountaintops through backyards in Tennessee.

Someone asked Boone Pickens if he would put any of these turbines on his 68,000-acre ranch in Texas. ''Hell no,'' he said. ''They're ugly.'' Well, if Boone doesn't want them on his ranch because they are ugly, why would we want them on the most beautiful mountaintops in America, in North Carolina, Tennessee, Virginia, West Virginia, Pennsylvania, all the way up to the White Mountains of New Hampshire?

Some of the jobs that we will be growing and attracting to our region and across the country are so-called green jobs, created as scientists and engineers work on the grand challenges I propose. Please remember that nuclear power is also green. Electric cars and trucks are green. One-third of Tennessee's manufacturing jobs are auto related. Even green jobs need low-cost electricity. The two new polysilicon plants located in Cleveland and Clarksville, TN manufacture polysilicon for solar panels that go on roofs. Together these two plants use 240 megawatts of electricity, about one-fifth of the production of the new nuclear unit at Watts Bar. Don't forget about places like the Aluminum Company of America in my hometown, which has closed its smelter and won't open until it can get a 20-year, low-cost electricity contract from TVA, or the steady stream of regional manufacturers who have been to my office saying that electric rates are already too high for them to keep jobs in our region.

The point is, if we care about jobs of any color, the cost of electricity matters. Which is why it is especially galling to see France, a country we usually don't like to emulate, using the technology we Americans invented to give themselves some of the lowest electric rates and lowest carbon emissions in the European Union.

So why is it that nuclear energy, perhaps the most important scientific advancement of the 20th century, was invented in America and yet we stopped taking advantage of it just when we most need it? Shortly after World War II, Glenn Seaborg, the great American Nobel Prize winner, said that nuclear energy had come along just in time because we were reaching the limits of fossil fuels. He was right. The succeeding decades proved that fossil fuels are not unlimited, and their supplies could seriously compromise energy independence. And that doesn't even address global warming.

Yes, I do believe global warming and climate change are problems we must address. We can't go on throwing 3 billion tons of carbon dioxide into the atmosphere every year without running into some kind of trouble. Every session I have been in Congress, I have introduced legislation to cap carbon emissions from coal powerplants. But the way to deal with global warming and to keep our jobs is to encourage what has been called the ''Nuclear Renaissance'' and start making nuclear energy the backbone of a new industrial economy.

Right now there are 17 proposals for 26 new reactors in licensing hearings before the Nuclear Regulatory Commission. That is a start. I think we need to go well beyond that.

I propose that from the years 2010 to 2030 we build 100 new nuclear reactors to match the ones we are already operating. That is what we did from 1970 to 1990. During that 20-year interval, we built almost every one of the 104 reactors that now provide us with 20 percent of our electricity. If we build another 100 by 2030, we will be able to provide well over 40 percent of our electricity from nuclear power. Clean hydropower provides 6 percent of our electricity today, and with the electrification of small dams around the country, we may be able to expand that to 8 percent. With diligent conservation, and some renewable resources, we can add another perhaps 10 or 12 percent. Then, my friends, we will really be talking about a clean energy economy.

Still, that is only the beginning. The second largest source of carbon emissions—and the biggest source of our energy instability—is the 20 million barrels of oil we consume every day to run our cars and trucks. I believe we should make half our cars and trucks plug-in within 20 years. That would reduce by one-third the oil we import from foreign sources. The Brookings Institution scholars estimate we can power those cars and trucks by plugging them in at night without building one new powerplant. Let me repeat that. If we electrify half our cars and trucks in America, we can plug them in at night without building one new powerplant because we have so much unused electricity at night.

As our fleet of electric vehicles grows, the most logical option for plugging in will be supplied by clean nuclear power. Until we make great advances in storage batteries, it cannot be electricity that is sometimes there and sometimes not. We cannot have Americans going to bed every night praying for a strong wind so they can start their cars in the morning.

Still, when it comes to nuclear power, a lot of people worry about safety. They say: Well, nuclear power sounds great to me, but I am afraid one of those reactors is going to blow up and cause a holocaust.

Well, let's make a few things clear. As Oak Ridgers—where I was last week—know better than almost anyone, a reactor is not a bomb. It cannot blow up. That is impossible. There is not enough fissionable material there.

What a nuclear reactor can do is overheat if it loses its cooling water, just the way your car engine can overheat and break down if it loses its antifreeze. It is called a meltdown. Nuclear scientists have warned about this from the beginning and take many precautions so it will not happen.

Nuclear skeptics like to bring up Three Mile Island, so let's talk about that. What happened at Three Mile Island was basically an operator error. A valve failed, and when the automatic safety mechanism kicked in, the operators overrode it because of a mass of flashing lights and sirens on the control panel, which confused them about what was happening.

Three Mile Island completely changed the nuclear industry. The Kemeny Commission, appointed by President Carter, analyzed the problems and made many recommendations, most of which were put into practice. The valve that started the whole thing had failed nine times before in other reactors and the manufacturer had tried to keep it a secret. People in the nuclear industry were not talking to each other.

Now all of that has changed. Nuclear operators train for 5 years before they can take over control rooms. They spend 1 week of out of every 5 in a simulator honing their skills. The nuclear companies have special SWAT teams that can be dispatched anywhere in the country at a moment's notice in case anything goes wrong. A Nuclear Regulatory Commission inspector practically lives on the site. What is more, every reactor in the country is on the

hook for $100 million if something goes wrong at another reactor. As you can imagine, they watch each other very closely.

And it shows. Our entire nuclear fleet—104 reactors—is now up and running 90 percent of the time. There has only been one year-long shutdown for safety problems in the last decade. We have added the equivalent of 29 new reactors since 1990 by doing a better job of running the ones we already have. If the rest of America ran as well as the nuclear industry, we would be sitting on top of the world.

''But what about Chernobyl?'' someone will say? ''Wasn't that a nuclear catastrophe?'' Well, the Soviets did things very differently at Chernobyl than we know how to do in this country. For instance, they did not put a containment structure around the reactor, which is like not putting a roof on your house and then acting surprised when it rains and you get wet. In addition, they did something no American power reactor has ever done: They surrounded the core with carbon in the form of graphite. That is like building your reactor in the middle of a charcoal grill. When the graphite caught fire, it spewed radioactive smoke all over the world. That could never happen at an American reactor—and it will not happen again in Russia since they have made a lot of changes over there and now they are building reactors in the same way we build reactors.

So let's build 100 new nuclear reactors during the next 20 years. Our new reactors have even better safety features—although it is never good to be overconfident. We have learned how to run the current fleet at its full potential. Most reactors are making close to $2 million a day. The attorney general of Connecticut proposed a windfall profits tax a few years ago when fossil fuel prices went through the roof. He said it was not fair that reactors could run so cheaply. So why not expand on our winnings? Why not build another generation of reactors?

Well, a lot of people say it cannot be done. They say we do not manufacture anything anymore in America. We have to import all our goods from China. They say we do not have the nuclear engineers to design the new generation. They say we do not have the specialty welders to put them together on site. They say we cannot manufacture the steel vessel heads anymore, and our steel forges are not big enough. Right now, the only forge in the world big enough to make a reactor vessel is Japan Steel Works, and they are backed up. People say our new plants will spend a decade standing in line behind the 34 other reactors that are already under construction in the world, mostly in Asia. And you know something. They are right. They are right because all the things they are saying here are true. We do not have a nuclear construction industry. But then, they do not know America. America can respond to a challenge. Just as we rose to the occasion in 1943 when we began the Manhattan Project at Oak Ridge and at other sites in our country, so can we rise to the occasion today to build a new generation of nuclear reactors that will provide clean, reliable power for America for the rest of this century.

It is not going to be easy. What we are talking about here is essentially a rebirth of Industrial America, and it is already starting to happen. Westinghouse is opening a school for training welders who can knit together a containment structure strong enough to protect both the environment from the reactor and the reactor from outside threats. Alstom, a French company, is investing $200 million in Chattanooga, in my State, to manufacture heavy turbines for nuclear plants.

We also have to train nuclear engineers to take the place of the great generation that embraced the technology in the 1960s and 1970s, only to see their dreams come to naught when the Nation turned away from nuclear power. We have to find a steel manufacturer somewhere in this country that is willing to step up and say: ''Here, we can do those forgings right here in Pennsylvania or Ohio or Michigan or Illinois. We do not have to stand in line in Japan.'' And we have to find investors who are willing to put up their money and say: ''Yes, I have faith in America. I have faith in technology. I am ready to invest in building a cleaner, safer, more prosperous world.''

With Presidential leadership, we could add more loan guarantees to accelerate construction, and could streamline the permit system to ensure that new reactors do not become ensnared in regulatory mazes or combative lawsuits. But we cannot sit on our hands because in America we do not sit around waiting for the Government to do things for us. We do things for ourselves.

So the task we face here today is no less formidable than the task the Oak Ridge pioneers faced when they first arrived in Tennessee in 1943. They were trying to save the world from Japanese militarism and Nazi totalitarianism. Now we are trying to save the world from the pending disaster of dwindling energy supplies, the uncertain dangers of a warming planet, and the stagnation and decay that can only follow if we do not revive American industry.

So I propose today that we work together across the aisle, with the President, in the task of bringing about a Nuclear Renaissance in helping to generate the Rebirth of Industrial America.

Mr. President, I yield the floor.

I suggest the absence of a quorum.

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

The assistant bill clerk proceeded to call the roll.

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

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

Mr. BURR. Mr. President, I come to the floor because the Senate this week is considering a new regulatory bill for the tobacco industry and there will be Members who will come to the floor to say: We have tried to do this for 10 years. This is well past due.

Well, in part they are right. This bill was produced 10 years ago. It has not changed. It is exactly what was produced. But let me try to fill in some history for the Members of the Senate.

In 1998, we passed the FDA Modernization Act. I was the lead sponsor of that bill in the House of Representatives. We spent 2½ years developing a bill to modernize the Food and Drug Administration.

Most Americans do not even realize what the Food and Drug Administration is. It is an agency in the Federal Government that regulates 25 cents of every dollar in our economy. It is what assures every American that when you go to the pharmacy and you get a drug, there is a Federal agency that has determined that drug is, one, safe, and, two, effective; or that when you go to a hospital or a doctor's office, and they take a medical device—maybe it is something that permits them to go inside your body without cutting you open—that device has gone through an extensive review by the FDA.

In some cases, pharmaceutical products take up to 12 to 14 years for approval—the amount of clinical trials to prove safety and efficacy that we go through, not just on animals but on humans—but it assures every American that the gold standard in the world exists right here in the United States of America. We put manufacturers and their products through a test at the FDA like no other country does. As a matter of fact, when the European Union was created and there were efforts to try to harmonize our approval process in the United States with that of Europe, what we found was that Europe's adoption, then, of 15 countries was that they take any of the 15 countries' approval process. What we found in the United States was it was hard for us to find one country that had as rigid a requirement as the United States of America; therefore, we didn't harmonize. For that reason, there are drugs that are approved in the European Union that are not approved in the United States because they either haven't met the test of the FDA or they have chosen not to go through the test.

The reason I share all of that with my colleagues is that for 2½ years, there were two focuses of those of us who worked on FDA modernization: one was to make sure we had an agency that could perform its task of efficiency, and two, that we did nothing to change the gold standard—the assurance the American people had that every time they got a prescription, every time there was a device, that the gold standard was intact, that it was safe and effective.

It says on the FDA's Web site—and this is just part of their mission statement:

The FDA is responsible for protecting the public health by assuring the safety, efficacy and security of human and veterinary drugs, biological products, medical devices, our Nation's food supply, cosmetics, and products that emit radiation.

For the most part, I think we would agree that we do set the gold standard on the approval of products. We do have some questions about the Nation's food supply. This body has taken up three or four different pieces of legislation because of the fact that the FDA has not had the preview process they needed, and because of that, there have been contaminated foods—some produced here in the United States, some things were shipped in from out of the country, but it was FDA's mission to make sure that did not happen. Well, when we passed that piece of legislation, we all of a sudden accelerated the application process, the review process of drugs and pharmaceuticals. In the next year, we approved 81 new applications because that FDA Modernization Act was in place but, more importantly, the gold standard was still in place.

I wish to ask my colleagues, what are we here today to do? The legislation that is on the floor is to give the FDA the jurisdictional responsibility of regulating tobacco. I want my colleagues to think hard about this. The FDA's responsibility is for protecting the public health—well, tobacco is bad for the public health; it causes disease and it causes death—''by assuring the safety and effectiveness.'' Well, how in the world can you certify that tobacco is safe? It can't be done.

So to say we are going to allow the FDA to become the agency of regulatory jurisdiction is to say to an FDA reviewer: We would like you to do this on drugs, we would like you to do this on devices, we would like you to do this on foods, and we would like you to do this on cosmetics and products that emit radiation, but when it comes to tobacco, we don't want you to hold tobacco to the core mission statement of the FDA. We want you to ignore that it kills people, we want you to ignore that it causes disease, and we want you to just regulate it based upon how Congress said regulate it.

It is not making much sense to people who are listening. Why would you do this? You could find any agency or create an agency to do exactly what Congress laid out in law. But no, we are laying it out in law and we are saying to the FDA: We want you to take that on as your jurisdiction, as your responsibility.

But what is the likelihood of this, that by putting this new burden on the FDA and surging reviewers who are currently working through applications on drugs and devices, working on food safety, and we surge them over to this new area of responsibility called tobacco, that we are going to put more junior employees working on applications of drugs? It might be the next lifesaving drug that is on the marketplace. It might be a device that is actually a device that is inserted into your body, and maybe a young reviewer either delays the approval of that device or that pharmaceutical or makes the wrong decision because the senior reviewer has gone over to do tobacco.

Some will come to the floor and claim that tobacco has to be in the FDA. The FDA, since its inception, has never, ever regulated tobacco. We regulate it through what was the ATF, Alcohol, Tobacco and Firearms; the Federal Trade Commission has regulated the labeling; and the industry on its own eliminated most of the concerns the American people had when they had a master settlement with States years ago.

We are going to be debating this for days. I am going to be down here frequently until this debate is over with because what I want is for the Members of the Senate and the American people to understand that it is not as black and white as what some people would come to the floor and say: Just give it to the FDA and let them handle the responsibility. Feel comfortable doing that if you are willing to jeopardize drug safety, food safety, and device safety because they can't prove the safety and efficacy of this product. As a matter of fact, the bill that is being considered by the Senate doesn't do anything to regulate existing products that are on the marketplace. Think about that. Think of all of the cigarette brands you see behind the counter. The Kennedy bill actually says they are grandfathered. You can't touch them. You have to allow them to continue to be sold. But to a new product, one that might be a reduced-risk product, meaning less harm to the user, the pathway to try to be approved through the FDA is impossible.

It is estimated that without doing anything, we will have a 2-percent reduction in cigarette usage per year in this country. That is a statistic the CBO came out with. But if we enact this bill, according to the—excuse me, CBO estimated that it is currently being reduced at 2 percent annually. According to the Centers for Disease Control, smoking rates declined among Americans annually at 2 to 4 percent. Think about this: CBO says this bill will reduce cigarette smoking by 2 percent annually. CDC says we are currently reducing cigarette smoking use 2 to 4 percent in the United States. In essence, what CDC says is, if you do nothing, we are going to reduce it more than what this bill is going to do. Why? Because CDC—the Centers for Disease Control and Prevention—realizes that when you grandfather all of these products, where FDA has no ability to go in and say, do this, do that, what you are doing is you are locking in the American people. When you say to the FDA: Have this jurisdiction, but we are not going to give you any real way to bring reduced-risk products or reduced-harm products to the marketplace, all you are doing is assuring that people are going to continue to smoke cigarettes.

The marketplace at least has brought smokeless tobacco into the marketplace, and through that smokeless tobacco, it has generated a 2-percent reduction in smoking. We can make the claim that smokeless tobacco is not good for the American people. It is certainly not good for our youth. But the statistics show it is not as bad as smoking. You don't have the degree of death and disease from smokeless tobacco. We will get into that because there are studies around the world, many of them done in the country of Sweden, where we find exactly that, that they have been able to reduce smoking drastically in Sweden by allowing new, reduced-harm products to come to the marketplace, and through the ability of the public to decide that they would like to switch, they have drastically gotten off of cigarette products.

No, that is not the course we are going to take. We are going to take one that is typical Washington. We are going to pick an agency and we are going to say: Let's dump this responsibility on them, no matter what the cost is. We forget the fact that the FDA is the gold standard. It is responsible for protecting the public health. How are you protecting the public health when you grandfather every cigarette product that is currently on the marketplace to exist just as it is? How do you prove safety and efficacy? How can this be effective?

We are headed in the wrong direction. As one of the authors of the 1998 act, this troubles me greatly because I spent 2½ years trying to figure out how not to change the gold standard, that balance at the FDA that assured every American that it had gone through a grueling process of review, that it had passed every test that had been set to prove safety and efficacy. Why would we jeopardize this? Why would we risk the fact that we might change this gold standard?

These are the questions that are going to be asked over the next several days. They are questions I hope to answer for people, not with what I believe but with the facts, with the truth about what is going on around the world, why we are headed in the wrong direction, and why we can have an effective regulatory entity in Washington without jeopardizing the future of drug and device safety, food safety, cosmetics, and products that emit radiation. These are things we need to take very seriously.

I will make this last request, as I see my colleagues are headed to the floor and wish to speak as well. I only asked one thing a week and a half ago of the committee members, and that was to read the bill. Well, the fact that attitudes haven't changed much, that we are on an accelerated pathway, I can just about assure my colleagues they

didn't do what I asked. I didn't expect them to. I think the American people believe we read every bill before it is considered. I think most Members attempt to do that through staff or themselves. This is one that, quite frankly, had they read it, we wouldn't be here today. We wouldn't be doing what we are attempting to do.

This is not about a quest of 10 years. In 1998, when we opened the Food and Drug Administration to do the Modernization Act, we opened the entire thing. Every Member of Congress had an opportunity to amend that bill in the House and the Senate at the time and to give the FDA jurisdiction over tobacco. No Member exercised that ability. So in 1998, there were no Members who thought it was important enough to put that responsibility in the FDA.

We have seen steady reductions in smoking among adults and, more importantly, smoking among youth. Youths are always the ones we point at and we say we have to make sure we do this because children shouldn't have cigarettes. They are right. They shouldn't. That is why we have age limits and advertising limitations.

Can we do better? Yes, we can. Let me assure my colleagues, I will offer a substitute that not only is effective regulation, but it will protect the gold standard of the Food and Drug Administration. It won't put in jeopardy what we have established as the most crucial regulatory body we have that controls or regulates 25 cents of every dollar of our economy. I don't believe that is responsible of the Members of the Congress. They have already made the mistake in the House. I hope we don't make the mistake in the Senate. We can come up with effective regulation but not doing it through the Food and Drug Administration.

Mr. President, I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from New Hampshire.

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

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

HEALTH CARE REFORM

Mr. GREGG. Mr. President, I rise to speak about health care and where we are going on the issue of health care here as a government and as a nation. The health care train is beginning to leave the station, so to say. I wish to make sure it is on the right track, that it not be on tracks which will lead it over a cliff. So I want to lay out a few fundamental tests that I believe need to be passed for health care reform to be effective.

First, everybody needs to be covered. Everybody should have the right to get insurance in this country. That is a reasonable request, and it is a reasonable thing to do. The fact that some people don't have adequate health care coverage is not acceptable.

Secondly, we need to have a system which encourages the marketplace to produce better products, more quality, better health care. We also need a system that doesn't let the government become too intrusive into the health care administration so that we don't end up with the government between you and the doctor and we have a system where the government basically creates such a top-down bureaucracy that you end up with rationing or significant delays in the delivery of health care, as occurs in some of our sister countries such as Canada and England.

Thirdly, we have to have a system that encourages innovation and gives those creative minds out there in the health care field who are discovering new drugs and new ways to treat very serious illnesses the opportunity to do that, to get a reasonable reward for what they are doing, both monetarily and, of course, the great satisfaction of helping to cure people.

We also need a health care system which says to the American people: You are going to get quality health care when you go to get health care, and you are going to get it at a reasonable price.

So these conditions, these standards are things we should follow.

As this train starts to leave the station, we are seeing a great deal of talk around here about how any health care that is proposed, if it is coming from the other side of the aisle, must be heavily laden with new government restrictions and new government directions, the most significant of which is something called a public plan. A public plan—no matter how it is dressed up or what costume is put on it—has the same effect. It is a statement by the government that it is going to compete in the marketplace with the private sector for the delivery of health care insurance in this country.

That is not fair competition. There is no way the private sector will be able to compete with a public plan; we know that. What we know is that a public plan is essentially a stocking horse for a single-payer plan. It is more than the camel's nose under the tent, it is the camel's neck, and probably front legs, under the tent on the effort to produce a singer-payer plan.

It doesn't make a whole lot of sense for us to go into a single-payer plan, which is essentially nationalizing the health care system. We have seen neighboring nations have this experience, and their experience is not good. In your nationalized health care systems, such as in England, for example, about 78 percent of the women who get breast cancer survive. Here that percentage is around 92 percent. The difference is because in the United States detection occurs early. In England, unfortunately, because they have a public health care system, which essentially involves delay in the ability to get treatment, people are not determined to have that illness early enough to cure it effectively. You see that with all sorts of diseases.

In Canada, you may not be able to get hip surgery if you are over a certain age—certainly not in time to have your lifestyle improved. The simple fact is, a single-payer plan inevitably leads to delay in the delivery of care and also rationing. In addition, of course, it leads to massive bureaucracies, inefficiency, and a reduction in quality. It drives out of the market people who create new products, the new research, the new drugs, because you are basically setting a fixed return on what a person can make if they invest in producing a new drug, and the production of new drugs is a very expensive business. It costs almost $1 billion and 12 years to bring a new drug to the market. It is extremely expensive. If you cannot get a reasonable return on your money, you are not going to be able to get investors. If your investors are looking at that and saying the government may step in and fix my return and change the years of exclusivity and create a formulary to determine how and what drugs can be sold and who can buy them and ration those drugs, that does not work. It reduces research, and therefore quality, and it reduces the ability to get good health care.

A public plan should be a nonstarter. It should never happen. I have proposed—and I think we should be proposing formal ideas; we have not heard formal ideas from the other side of the aisle yet and I hope we will get some soon—I have sat on a number of bipartisan groups, which have been constructive, especially the Baucus group has been very constructive, but we still don't have anything formal coming out of that group. The same is true with the HELP Committee, under Senator KENNEDY—and from the administration, for that matter, we do not have anything formal.

I think we have an obligation to lay down the specifics on what we want to do. I proposed ''CPR.'' That is the title I have given the proposal: Coverage, Prevention, and Reform. Essentially, it will set up a system where every American will be required to get health insurance, and we will have affordable health insurance for low-income Americans, people under 300 percent of poverty or less. They will have assistance to get health insurance. The insurance will be focused on the biggest concern for most Americans, which is when someone in your family gets sick or has a severe accident and your entire economic lifestyle has changed and, in fact, maybe you are wiped out and bankrupted by that event. Essentially, this proposal will make sure everybody in this country has meaningful health insurance, so they cannot be wiped out by a medical event.

Secondly, this proposal is focused aggressively on the issue of prevention. It changes the HIPAA rules so employers can put more money into giving people incentives to live healthy lifestyles.

That is critical to our society. We have diseases in this country that can be addressed through improving lifestyles. We have seen that, and a lot of companies have been successful in this area—in the area of obesity, which is a severe problem, and with diabetes and other huge costs to society, we can change the impact of those costs and those very detrimental health problems through a better lifestyle. We should incentivize that—monetarily incentivize that. That is what my proposal does.

In addition, the proposal incentivizes people to take preventive action relative to screenings and to getting early health care intervention, rather than late health care intervention. It does it through financial incentives. That is the best way to do things—pay money for being thoughtful and healthy.

Third, it looks at the system of reimbursement and says this is a chaotic system in this country, where we have stovepipes branching off everywhere. We need to have a system that reimburses, first, for quality, rather than simply for procedures, and one that says if you are delivering quality care, you will be reimbursed—especially if you are delivering quality care at less of a cost, and you are going to get a benefit for that—the providers will. We have seen study after study, now over a period of 20 years—most done by the group at DARPA—which has shown us it is not an issue of cost that produces quality, it is an issue of those who are performing the procedures.

We know, for example, that in some parts of the country it can cost 50 percent more to get a certain procedure, and you will have 20 percent less of an outcome than if you go to other parts of the country. For example, if you go to Mayo Clinic, it will cost less to get one procedure, and you will get a better outcome than if you go to a hospital in southern California, where it costs more and you get less of an outcome. It is the same if you compare Florida and Washington State. If we incentivize quality and reasonable costs, we know we will get better quality and lower costs.

We also know we have a haphazard procedure around here on how we have deductibles relative to Medicare and the various parts of it. Nobody knows what their deductible is because it changes depending on what type of treatment you are getting—Part A, B or D, whatever. We should standardize those and get more efficiency into the health care system.

How do we accomplish this? If you are going to get everybody in the system, you have to basically require that everybody be in the system. We have 47 million uninsured people. Of that number, 20 million can buy their insurance. They have incomes up to $75,000 or more. But they choose, as a matter of lifestyle, not to insure themselves. A fair amount of people—the other 27,000 people—either don't have the wherewithal or they are with companies that are so small they don't have the wherewithal to supply health care.

What I am suggesting is that everybody in America has to buy health insurance—the coverage I talked about—meaningful health insurance, with a heavy emphasis on prevention and reform. If you cannot afford it, then we will help you buy it. But you have to buy it. It is an individual mandate. This is an approach that I think will work. It doesn't require that we throw the baby out with the bathwater. It doesn't require that we entirely rewrite our health care system in this country to satisfy those who want to run the health care system out of the government.

It is not a nationalization of the health care system, not a single-payer or a public plan system. There will be innumerable competing insurance products out there for people to buy in order to meet these standards of coverage—innumerable. They will be settled by the marketplace. People will have choices. States will have an exchange program, and you will be able to see everything available to you and quickly decide what is best for you as a family or an individual. It is not an attempt to totally rewrite the health care system. It is an attempt to build on the present system, and it recognizes we have weaknesses, such as the fact that 47 million people are not covered and that we actually disincentivize preventive medicine and a healthy lifestyle under HIPAA and such that we have a reimbursement system that makes no sense and is chaotic and has grown up, over the years, as a result of the bureaucratic machine that would make Rube Goldberg seem simple. Take the strength of our system—we have private sector initiatives going on that are creating better health care, which doesn't cause people to have to suffer massive delays and doesn't create rationing in the marketplace, depending on your age, and doesn't put the government between you and your doctor. That is a good health care system, and we should not throw it out by going to a public plan, a single-payer system. We should build on the health care system we have and bring those who are not covered into it and bring all of us into an attitude of living healthier lifestyles and focusing on prevention, quality, and reform; thereby promoting research and better health care.

That is my proposal. I don't expect this proposal to win the day, but I hope it will be listened to as we go down the road because this is a huge issue. Seventeen percent of the American gross national product is spent on health care. We don't need massive amounts of money in health care. We spend 6 percent more of our gross national product than the next closest nation. There is a huge amount of money moving around in our system. We need more quality at a more reasonable cost.

In addition, a lot of people are quite happy with their health care system, with what they are provided by their employer—usually. Why should we throw them out the door too? Let's address that. What we need is to look at the system we have, its strengths, and build on those strengths. We need to look at its weaknesses and reform them. I know my proposal will help accomplish that, and I hope it will be taken seriously.

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

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

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. DORGAN. Mr. President, I know we are on the 30 hours postcloture on the legislation that is the Family Smoking Prevention and Tobacco Control Act. I support that legislation. I applaud our colleague Senator KENNEDY for his leadership on this issue. It gives the FDA the authority to regulate tobacco, including ingredients in tobacco products and tobacco marketing, which I think is an important step for our Nation's health.

We talked a lot about this in the past. The fact is that smoking and the use of tobacco is dangerous to one's health. We know that. I had a doctor once say there are three things that will give you pretty good odds for a longer life. One is wear a seatbelt. The second is keep your weight down. And the third is don't smoke. Pretty sound advice. The ''don't smoke'' piece is about the health consequences of smoking.

We know especially the issue of marketing and marketing to children is a pernicious activity. We also know the best way you can get somebody hooked on cigarettes is to get them when they are kids, get them when they are young. Do you know of anybody who at age 35 is sitting in a La-Z-Boy recliner watching a color television set ruminating about life and thinking to themselves: What on Earth have I missed in life? What can I do to enhance my life? What should I be doing that I so far have been unable to do and they decide: I have to take up smoking. That just doesn't happen. If you don't get them when they are kids, you don't get them. That is why we pay a lot of attention to addiction to nicotine, marketing to children, and so on.

Let me say again the leadership of Senator KENNEDY and so many others on a bipartisan basis on this issue I think is very important. It deals directly with the issue of the health of the American people.

I do want to say, however, that I intend to offer an amendment tomorrow when we get on the bill itself. I want to describe why I am offering an amendment and what the amendment does.

The amendment is called the Pharmaceutical Market Access and Drug

Safety Act. This underlying bill deals with the FDA. So, too, will my amendment deal with the FDA. I will offer the amendment with Senator SNOWE from Maine, the Dorgan-Snowe bill which we worked on for a long while. It has very wide support in this Chamber from TED KENNEDY, JOHN MCCAIN, CHUCK GRASSLEY, DEBBIE STABENOW. So many others in this Chamber on a bipartisan basis have supported this concept.

Let us give the American people the opportunity that comes with the worldwide economy and the ability in the free market to choose your products. And here is the reason it is important to do that.

The American people at this point understand the value of prescription drugs. They are enormously valuable, and I commend all of those who produce prescription drugs. Yes, the pharmaceutical industry—good for them. Yes, the National Institutes of Health and in so many other areas with public funding as well that develop the approaches that result in lifesaving prescription drugs. I commend all of them, including the pharmaceutical industry.

But it is also the case that the pricing mechanism the pharmaceutical industry uses in this country is fundamentally flawed. They have a pricing mechanism that in most cases for major brand drugs, the American people are told: You get to pay the highest prices in the world. You, the American people, get to pay the highest prices in the world for the same pill put in the same bottle made by the same company. And it is not fair.

I have an example of that, and I ask unanimous consent to show them on the floor.

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

Mr. DORGAN. Mr. President, this is the drug called Lipitor. Most people understand what Lipitor is. It is a drug that is used to lower cholesterol. This happens to be made in Ireland and sent all over the world. These two bottles were sent to two different places—one to the United States and one to Canada. The United States consumer got to pay twice as much as the Canadian consumer. It is the same bottle, same pill, same company, FDA approved, and the American people are charged twice as much. And it is not just Lipitor. It is drug after drug.

The question is, why? Why should that be the case? It is not just Canada, it is virtually every other country in the world as well that enjoys lower cost prescription drugs, when, in fact, we pay a much higher cost for the identical drug.

This happens to be the price—$4.47 per 20 milligram tablet of Lipitor to a U.S. consumer, and just north of the border, $1.82 for the same drug. I could have used other countries. It would have shown the same result.

I have taken a busload of North Dakotans to Canada because I live in a State that borders Canada. In a one-room drugstore at Emerson, Canada, I saw individuals buy their prescription drugs and saw the savings drug by drug. I sat in a farmyard one summer afternoon with an old codger in his eighties from North Dakota. He was talking about health care. He said: You know, my wife has been fighting breast cancer for 3 years. He said: For 3 years every 3 months we have driven to Canada to buy Tamoxifen to fight her breast cancer. Why did we drive to Canada? Because we couldn't afford it in the United States. We couldn't afford to pay for the drugs for my wife's fight against breast cancer. It was 80 percent less costly for the identical drug just north of the border. That is not fair.

Again, it is not just Canada. It is virtually every other industrialized country where drugs are sold for a fraction of the price they are sold in the United States. These are FDA-approved drugs, made in FDA-approved facilities, and sent all around the world. The only difference is pricing. We are charged the highest prices in the world.

The Wall Street Journal had a piece on April 15 of this year, quoting some experts:

> These kinds of price increases—
>
> Speaking of prescription drugs—
>
> are way out of line with what's being experienced in the rest of the economy.

Said Ron Pollack, executive director of Families USA, a consumer health care advocacy organization.

Credit Suisse's Catherine Arnold said drug companies have increased prices so aggressively in recent months to wring sales out of products before any health care cost-cutting efforts eat into profits.

That is not fair. One might ask: How can they do it? They can do it because there is something in law that prevents the importation of prescription drugs, even FDA-approved drugs, prevents the importation into this country by anybody except the drug manufacturer itself. That means the American people are not given the same opportunity to shop worldwide for an FDA-approved drug. It means it is a free-trade economy except the American people cannot participate in that free trade.

What we propose to do is to offer a piece of legislation that gives the American people the opportunity to access FDA-approved drugs, the same drug made in the same place marketed differently but priced higher in the United States to access those same drugs. Do we do this because we want Americans to buy their drugs from other countries? No, that is not the point. The point is if they can access that same FDA-approved drug sold for a fraction of the price in another country, it will force the pharmaceutical industry to reprice their drugs at a lower cost in this country in a manner that is fair to the American people.

The estimates of what this will save are $50 billion in 10 years—$50 billion in savings in this country. That is not insignificant at all.

One of the things that is always raised by those who support the practice of the pharmaceutical industry is this is going to cause all kinds of safety concerns. Can you imagine the counterfeit drugs that will come across?

I just described this drug Lipitor. This is not made here. It is made in Ireland and then shipped in. How do we know this is real? The provisions in the legislation that we have created actually provide safety requirements that exceed those that now exist with respect to batch lots and pedigrees and all kinds of new resources for the FDA to do more audits than they now do, to do more inspections than they now do.

Don't anybody come to the floor of the Senate raising those kinds of issues because they do not exist. This legislation is legislation that has very stringent safety requirements and will provide an opportunity for the American people for some basic fairness.

Here is a quote from Mr. Hank McKinnell, former Pfizer CEO. He said:

> Name an industry in which competition is allowed to flourish—computers, telecommunications, small package shipping, retailing, entertainment—and I'll show you lower prices, higher quality, more innovation, and better customer service. There's nary an exception. OK, there's one. So far, the health care industry seems immune to the discipline of competition.

That is exactly why the pharmaceutical industry can decide this afternoon behind a closed door: Here is what we are going to do to our prices, and if you don't like it, tough luck, because we have the capability to make it stick.

I don't come to the floor of the Senate as someone who has some sort of grief against the pharmaceutical industry. As I said when I started, the pharmaceutical industry plays a very important role in health care in this country. I have a grief against their pricing policy, however.

I held hearings on this issue long ago. A group of us on the floor of the Senate—Republicans and Democrats—has tried for some long while only to be blocked to pass legislation that would give the American people the opportunity to access the identical prescription drugs that are sold for a fraction of the price in the rest of the world and do it in a manner that is fair to the American people. We have been blocked in that opportunity.

This is an FDA bill on the floor of the Senate. This is the place to offer this amendment.

I visited with my colleagues this morning, Democrats and Republicans. I talked with Senator STABENOW, Senator SNOWE, Senator MCCAIN, and many others this morning about this amendment to this bill. On a bipartisan basis, we believe this will help the American consumer. It is long overdue. And at a time and during a year in which there is a lot of discussion about health care issues and the problems confronting this country in health care, one of the most significant problems is this dramatic march of price increases in health care.

Look, we spend more money per person on health care than any other group. We spend more money than any group of people in the world per capita by far, and we rank 41st in life expectancy. Something is not working out quite so well there. One of the areas of these price increases in health care that leads the pack is the issue of prescription drugs. Prescription drugs allow us to manage disease, in many cases keep people out of an acute care bed, which is very expensive. We know the ability to manage health care conditions through the use of prescription drugs has been very helpful and has been lifesaving to many Americans and people around the world. We understand that completely.

Those who oppose the amendment I am proposing would say: Look, all that will do then is shut down or at least reduce the revenue that the drug companies have, pharmaceutical companies have and, therefore, they will do less research and, therefore, have less opportunity to unlock the mysteries of these dreaded diseases and find the very next cure for Parkinson's, Alzheimer's, or some other disease.

It is interesting to me that the costs or the amount of funds spent for marketing and promotion by the pharmaceutical industry, at least from information I have, exceed the amount of money they spend on research. How many people in the morning have a little television set somewhere near while they are brushing their teeth getting ready for work. The television set is on, and there is a voice on the television set and a really interesting picture and it is describing some awful symptom that you have that you want to get rid of, and they are describing the symptom and describe the 85 things that could go wrong if you take the pill they are pushing. Then they say: Go to your doctor and ask him if the purple pill is right for you. I don't know what the purple pill does; I don't know what it is about, but the commercials are so intriguing and so persuasive, you almost want to go ask someone if the purple pill is right for you.

There is so much advertising relentlessly pushing prescription medicine at consumers—who can only get it if a doctor prescribes it in the first instance—how about cutting back on some of that advertising? So don't tell me that if they have to charge a price that is competitive with other prices around the world for the prescription drugs they sell in the United States that somehow it will injure their research.

Let me say that a fair amount of the research goes on here at the Federal Government level through the National Institutes of Health and the contracts all across the country, and we are substantially increasing that investment. I believe in that and I support it. I am one of those who has pushed and pushed because there are so many things that we can unlock with respect to these mysterious diseases, and we can make this a much better future if we invest in the research necessary.

When we find the capability and research to address these diseases, very often we see that research available to pharmaceutical industry companies that then market a pill or market some medicine as a result of it. And they do some research themselves—not insignificant, by the way—and find opportunities in their own companies as well to introduce and provide life-saving medicines. So my hat is off to all of them. It is just that I insist on fair pricing for the American people, and that has not been the case for a long time.

I am offering an amendment that is going to save this country $50 billion over the next 10 years. My colleague, Senator SNOWE, and I, along with many other colleagues, have introduced this piece of legislation—with more than 25 colleagues now, but we have had far more than that many in previous Congresses—and we are impatient. This has been a long tortuous trail and we are impatient to get this done on behalf of the American people.

I wanted to come today, even during the 30-hour postcloture period, to say that when we are on the bill tomorrow, I intend to offer this legislation and to do it in a way that advantages the American consumer to be able to access the same quality prescription drugs that other consumers around the world are accessing for similar prices. At the moment that is not the case. We are overcharged. The drugs are overpriced. It is unfair to the American consumer, and it is past time—long past the time—for this Congress to do something about it.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BURR. 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. BURR. Mr. President, as I stated earlier today, I will be back time and time and time again to help my colleagues, one, understand what bill is being considered this week in the Senate but, more importantly, the ramifications of doing the wrong thing.

I think most Americans would agree that we should do everything we can to regulate tobacco products as relates to the youth of our country. By the same standard, I think that we have an obligation as Members of the Senate to make sure we don't in fact limit the choice of adults who choose a tobacco product. I believe that you don't limit that if you responsibly regulate the product. I believe you do limit it if in fact to make something fit you design a regulatory scheme that by default limits the future options adults might have.

I left off earlier talking about the core mission of the Food and Drug Administration being to protect the public health by ensuring the safety and efficacy of pharmaceutical products, biologics, medical devices, cosmetics, and the food supply. God knows we have been challenged over the last couple of years with the food supply. Whether you talk about contaminated peanut butter or spinach in California, a number of things have come into play, and I think many of us would agree the Food and Drug Administration has been deficient in the area of food safety. As a matter of fact, the people now authorizing bills to dump on the FDA the responsibilities for tobacco were very critical of the FDA as it related to their food safety oversight, so it shouldn't shock any of us that I think they are misguided in where they have chosen to focus their efforts toward regulating this industry.

Let me add to that the former—just recently former with the change in administration—FDA Commissioner's statements about this bill.

> The provisions in this bill would require substantial resources, and FDA may not be in a position to meet all of the activities within the proposed user fee levels. As a consequence of this, FDA may have to divert funds from its other programs, such as addressing the safety of drugs and food, to begin implementing this program.

This is not something I have schemed up. This comes from the former Commissioner of the FDA, who says that within the framework of the Kennedy bill, the user fee levels alone may not be enough for us to set up this regulatory framework and, therefore, we might have to divert funds from other programs, such as addressing the safety of drugs and food to begin this program.

Let me explain. To implement this program, it will cost $787 million a year—$787 million a year. I will propose, along with Senator HAGAN, a substitute—that when HHS was asked to tell us how much they needed to absolutely fund that new entity to regulate the tobacco industry they told us they would need $100 million. So there is already an option on the table that allows us to take user fees from the industry to fund a $100-million-a-year program to regulate the entirety of tobacco; or we can choose to put it at the FDA, where we are basically going to do the same thing and the former FDA Commissioner said the $787 million devoted to user fees may not be sufficient to meet the regulatory requirements set forth in this legislation.

It is actually a little bit worse than that, because the CBO stated that before the Kennedy plan can be implemented—which is paid for by a shell game of requiring military servicemembers to mandatorily participate in TSP, the savings plan, the 401(k) of the Federal Government—to pay for the program you have to come up with $200 million to kick the program off. You know, it is a catch-22. The Kennedy program can't even be implemented from the shell game of funding they

have set up, but more importantly it is going to cost almost eight times more than if we were to regulate tobacco in a separate entity under the guidance of the Secretary of Health and Human Services—the same person who has the guidance of the FDA; the same Secretary.

What we are going to propose is that we set up a new agency to in fact regulate the tobacco product, but not get it confused with other core missions, such as the safety and efficacy of drugs and biologics and devices. That would be a huge mistake, I believe.

Let me, if I could, quote Jack Sullum's April 2008 op-ed in Reason Magazine in talking about the Kennedy bill. He said:

A consumer protection bill that reduced competition, raised prices, restricted choice, blocked information, and made products more hazardous could not really be counted as a success. The act imposes new regulatory burdens and advertising restrictions. The compliance costs and reduced competition are likely to raise prices. The bill not only authorizes the prohibition of safer tobacco products in the censorship of potentially lifesaving information about relative risks; it gives the FDA permission to make cigarettes more dangerous by ordering reductions in nicotine content. Such a mandate aimed at making cigarettes less attractive to new smokers would force current smokers to absorb higher levels of toxins and carcinogens to obtain their usual doses of nicotine. According to supporters, this bill, backed by the biggest tobacco company, will enable the FDA to protect smokers from big tobacco. But who will protect smokers from the FDA?

That doesn't come from RICHARD BURR or any other Member, this comes from an individual who has had an opportunity to read the bill, something a majority of the Members in the Senate have not done. If Members of the Senate read the Kennedy bill, they would never put the jurisdiction of tobacco with the FDA. They would never jeopardize the safety of drugs, of cosmetics, of devices and biologics. In fact, the Kennedy bill authorizes the prohibition of safer tobacco products.

Let me say that again, because I don't think everybody realizes what I said. The bill prohibits safer tobacco products and the censoring of potentially lifesaving information about relative risks among tobacco products. But this is being sold as a public health bill. This is being sold as a bill that reduces youth access, youth usage of tobacco products.

Let me tell you what we did in 1998. It really wasn't what we did. We were, I guess, smart enough to stay out of it. The tobacco companies, understanding that there was a tremendous health cost that resulted from their products, came up with a settlement with all the States. It was called the Master Settlement Agreement—the MSA—and we will talk about the MSA a lot over the next few days. How much was the MSA? It was a guaranteed award of $280 billion over a period of time, and every year the companies make that payment to the States. These funds were to be used for health care costs and programs associated with tobacco use, mainly cessation programs. The industry was actually paying States to run cessation programs to get people to stop smoking—to stop using tobacco products.

If States spent the MSA money the way the CDC recommended to them every year, trust me, we wouldn't be here today. We would not be talking about the FDA taking over the jurisdiction of the regulatory responsibilities of tobacco, because had States used the money that was devoted for these cessation programs, the reduction in smoking would have been dramatic.

Let me add that, according to the CDC, smoking rates among Americans decline annually 2 to 4 percent currently—2 to 4 percent a year. The CBO, when looking at the Kennedy bill, estimated that, when implemented, this legislation would only decrease smoking by 2 percent annually. In other words, doing nothing versus the Kennedy bill, we have a trend line that gets us to a 15.97 percent usage of tobacco products in the year 2016; under the Kennedy bill, as scored by CBO, you would have a usage of cigarettes—of smoking products—of 17 percent in 2016. That is almost a 2-percent difference—a 2-percent additional decline, if we do nothing. And I am not here proposing that we do nothing. I am here proposing we do a new regulation, but we don't do it in a way that necessarily jeopardizes the safety, the gold standard of the Food and Drug Administration.

I think it is shocking in talking about the MSA, the $280 billion over these number of years designed to help States with their health care costs and with cessation programs. What have the States been doing? Let me pick a few of them, if I could. Of the amount the CDC recommended to the State of Connecticut that they spend on cessation programs—programs designed to get people to stop using tobacco products—how much did Connecticut spend? It is easy, 18.9 percent of what the CDC recommendation was—18.9 percent. I don't know whether they built sidewalks or highways or paved roads or what they did with it, but they certainly didn't do it to try to get people to quit smoking.

It is easy to come up here and pass something that you can turn around and say: Well, this should work, rather than to actually devote money to actually doing something that matters. As a matter of fact, let me say that the smoking prevalence among youth in Connecticut is 21.1 percent.

The alcohol prevalence in youth in Connecticut is 46 percent. The use of marijuana prevalence among youth is 23.2 percent. The use of marijuana in youth in Connecticut is 23.2 percent; alcohol, it is 46 percent; of tobacco, it is 21.1 percent. Why aren't we addressing the real problems? Alcohol usage prevalence among youth is twice what tobacco is. Marijuana is 2 percent higher than tobacco.

Illinois. Of the CDC recommended amount to go to cessation, how much did they spend of the recommended amount? Mr. President, 6.1 percent—6 percent of what CDC said they ought to be spending of the FSA money on programs to reduce the rate of smoking. They used 6 percent. And 19.9 percent of the prevalence among youth in the use of tobacco; 43.7 percent of alcohol; 20.3 percent of marijuana. Again, alcohol and marijuana are higher in youth prevalence than tobacco usage. Six percent of the CDC recommendation devoted to programs to try to reduce the use of tobacco products.

Massachusetts. Of the CDC recommendation as to how much should go to programs to get people to stop the use of tobacco products, 15 percent; 85 percent devoted to something else—building sidewalks, filling in budget gaps—but not to reduction in the use of tobacco products.

But this is such a prevalent issue, we are going to spend a week or longer of the Senate's time talking about how we jeopardize the gold standard of the FDA when States that have had the funds since 1998 to reduce the problem chose to use them on something else because it wasn't a big deal.

In Massachusetts, 17.7 percent prevalence in youth usage of tobacco products; 46.2 of alcohol; 24.6 of marijuana.

Missouri. Of the CDC recommendation for cessation programs, how much did they spend? They spent 3.7 percent. For 96-plus percent, they said: We are not going to spend this on what the CDC recommended that we do to reduce tobacco consumption. We are going to spend it on what we want. Mr. President, 23.8 percent youth prevalence of tobacco usage; 44 percent for alcohol; 19 percent of marijuana usage. Thank goodness marijuana usage in Missouri is lower in the rate of prevalence among youth than tobacco.

Nevada. Of the CDC recommendation of how much they devote in Nevada to reduce tobacco usage, 12.6 percent. And 13.6 percent youth prevalence—they do a tremendous job with making sure the usage by youth is minimal, 13.6 percent; 37 percent for alcohol; 15.5 percent for marijuana.

New Hampshire. Of the CDC recommendation, they spent 5.7 percent on programs to get people to stop smoking. Nineteen percent youth prevalence for smoking; 44.8 percent youth prevalence for alcohol; 22.9 percent youth prevalence for marijuana.

New Jersey. Of the CDC recommendation, 8.5 percent; 19.8 percent for smoking prevalence in youth; 46.5 percent alcohol prevalence for youth; 19.9 percent marijuana prevalence for youth.

Ohio. How much of the CDC recommendation for programs to actually reduce consumption of tobacco products? It is 4.9 percent. Tobacco use prevalence among youth, 21.6 percent; alcohol, 45.7 percent; marijuana, 17.7 percent.

Texas. Of the CDC recommendation, 4.7 percent. Over 95 percent of the recommendation of the CDC, if you wanted to reduce youth prevalence of smoking, 95 percent went somewhere else. Twenty-one percent prevalence in youth smoking; 48 percent alcohol; and 19 percent in marijuana.

This is a sampling for now 11 years during which they have had the funding to do the programs. They have seen a greater need in the States, a greater need to the tune in some cases of 96-plus percent that they were going to devote to something else because the prevalence of youth smoking wasn't that big a concern to those States. They diverted the money. Now, all of a sudden, this is such a pressing issue even though the trendline says doing nothing actually reduces the use of tobacco products, of smoking, more than the bill that is being considered. If we did nothing, it would do better, but all of a sudden we have religion in the Senate.

Here is an opportunity to actually pass something and to go home and say: Here is what we have done. Ten years ago, we promised you the FDA would have jurisdiction, and we didn't do it.

What they forget is, 11 years ago, when we passed the FDA Modernization Act, we opened up the entirety of the FDA as we redesigned how they functioned, and no Member of Congress offered an amendment to give the FDA—11 years ago—the responsibility for tobacco. Every Member focused, over 2½ years in crafting that legislation, on making sure that this mission statement, the responsibility for protecting the public health by assuring the safety and efficacy of drugs, devices, cosmetics, food safety, that we didn't do anything to diminish this. Now, all of a sudden, 11 years later, we are claiming that for 10 years we actually wanted FDA to have jurisdiction of tobacco, and we are willing to jeopardize the mission of FDA on drugs, devices, biologics, and food safety just because we want to give them this new jurisdiction.

Read the bill. Actually spend the time to sit down and read the bill. You will find out how we are jeopardizing the future of the American people relative to drug safety.

Let me quote from the American Association of Public Health Physicians in its white paper on the case of harm reduction. We will talk about reduced-risk products and harm reduction a lot of over the next several days.

From the white paper:

> Tobacco harm reduction is taken to mean encouraging and enabling smokers to reduce their risk of tobacco-related illness and death by switching to less hazardous smokeless tobacco products. In practical terms, enhancement of current policies based on the premise that all tobacco products are equal risk will yield only small and barely measurable reductions in tobacco-related illness and death. Addition of harm reduction components, however, could yield a 50 to 80 percent reduction in tobacco-related illness and death over the first 10 years and a likely reduction of up to 90 percent within 20 years.

That is from the American Association of Public Health Physicians. That basically says what you are getting ready to do is a huge mistake. You are getting ready to grandfather every tobacco product on the market today and you are ruling out these new products that might come to market in the future that would have a devastating impact on the reduction of death and illness among the American people, which has a direct impact on health care costs.

From the Royal College of Physicians in Sweden:

> In Sweden, the available low-harm smokeless products have been shown to be an acceptable substitute for cigarettes to many smokers, while ''gateway'' progression from smokeless to smoking is relatively uncommon.

Why is this important? You will hear people say these new smokeless products shouldn't come to the marketplace because that is an opportunity for youth to get hooked on nicotine and then to turn to smoking. Smokeless product has an age limit, just like cigarettes. As a matter of fact, I quoted the numbers on marijuana prevalence for youth. Marijuana is illegal. It does not have an age limit to it. It is illegal. Yet, for most of the States I referenced, the prevalence among youth of marijuana usage was higher than that of tobacco. Where is the outrage?

Dr. COBURN will come to the floor at some point before the end of this debate. He will offer a recommendation that we give the jurisdiction to the FDA for smoking marijuana. Why? Because smoking marijuana does more health hazard to one's lungs than smoking tobacco. I will let him make the case because he is a doctor and deserves the credibility of his profession.

There are 14 doctors in the 111th Congress, with two of those doctors in the Senate: Dr. COBURN and Dr. BARRASSO.

One of the House M.D.s, MICHAEL BURGESS, a member of the Health Subcommittee of the House Committee on Energy and Commerce, felt compelled to explain why he voted against this bill in the House, a doctor who voted against the companion bill to the Kennedy bill. He practiced medicine in North Texas for 25 years and lost both parents to tobacco-related illness. He said:

> The FDA is a beleaguered agency that cannot do what we currently require it to do with food and drugs. Agency officials have stated the FDA is badly understaffed and underfunded. Yet, with this bill, we are giving the agency an entire new group, tobacco. This is hardly a logical rationale, let alone safe for the American public. Until the agency is able to demonstrate on a consistent basis that they have the capacity to do all we currently require them, we should not give them additional responsibilities.

That is a doctor of 25 years who is basically looking at the work of the FDA and saying: Nobody in their right mind, especially a medical professional, would consider this to be a wise thing, to offer the FDA additional jurisdiction.

Until they can prove that they understand the responsibility of the FDA, which is to protect the public health by assuring the safety and efficacy and security of human and veterinary drugs, biological products, medical devices, our Nation's food supply, cosmetics, and products that emit radiation, until they do that, why would we even consider giving them any more?

That is a medical doctor of 25 years making that statement when he voted against this bill in the House.

This bill is going to pass, make no illusions about that. Why? Because Members haven't read it. If they did, there is no way they would vote for it. The truth is, this is going to be popular at home. They will go home and say: I gave the FDA regulation of tobacco products. They will not go home and say: We had an opportunity since 1998 to reduce youth usage of tobacco and our State decided not to even meet the recommendations of the CDC, much less the others. We thought it was more important to build sidewalks or fill budget gaps than to meet these new targets. Now we have the answer to it because giving it to the FDA, no child will ever smoke again. Baloney. If they are under 18 today, they are finding some way to buy tobacco. It is illegal, but it should not surprise us when we look at marijuana usage, where we have a product that is not age limited, it is illegal, and more youth use marijuana than use cigarettes.

We really have to focus on this, if, in fact, we want to make sure we don't do the wrong thing.

Let me, at this time, cite part of a letter from Elizabeth Whelan. Dr. Whelan is the president of the American Council on Science and Health. This letter was sent to Congressman STEVE BUYER and Congressman MIKE MCINTYRE in the House. She writes:

> (H.R. 1256) will not only fail to reduce the ravages of cigarette induced disease and death—it will likely worsen it. The new regulation of tobacco additives will not lower the toxic and carcinogenic mixture induced by the combustion and inhalation of cigarette smoke. The enhanced restrictions on lower risk tobacco products such as smokeless tobacco and clean nicotine which have been shown to assist addicted smokers in quitting will condemn the over 40 million addicted smokers to the same old quit or die pair of options.

Limit 40 million addicted smokers to the same old quit or die options.

We are going to see, over the next several days, people come to the floor and say this is about public health, this is about reducing youth usage, this is about addressing the health risks of tobacco. Yet every professional who has written on this issue has said: What we are getting ready to do in the Senate is the worst thing we could do. It is going to make the problem worse. It is going to raise the cost of health care, not lower it. It is going to lock more people into choosing cigarettes

versus smokeless products or other nicotine products that might get them off of cigarettes as an addiction.

In addition to not advancing the public health, I firmly believe this bill will further overburden the FDA and doom the FDA at its core mission of safety and efficacy of drugs and devices and biologics and food safety.

Again, Mr. President, I plan to visit the floor a lot, as will some of my colleagues, over the next several days as we have an opportunity to continue to talk about this bill but also to offer amendments on this bill.

The FDA grew out of a single chemist in the U.S. Department of Agriculture in 1862 to a sprawling agency today of nearly 10,000 employees comprising chemists, pharmacologists, physicians, microbiologists, veterinarians, pharmacists, lawyers, and many others. Let me assure you, they are some of the most talented people we have in this country—the most dedicated professionals—to make sure this core mission is met every day. The worst mistake we could make is to give them something that does not fit in the mission of FDA because I do not care how much you try, you just cannot prove that tobacco is safe and effective. It just cannot happen.

If the effort is to get more Americans to make the choice of giving up the habit, then do not create a system that does not allow new products that Sweden and other countries have experienced reduce the amount of usage. Certainly, do not fall prey to the belief that if we pass this legislation we are going to reduce drastically the use of tobacco products. As a matter of fact, as CDC proved, doing nothing reduces the use of tobacco products 2 percent more than if we pass the Kennedy bill. CBO estimate for the Kennedy bill; CDC estimate if we do nothing.

If the effort is to get it right, one would suggest we are doing it wrong. If the effort is to make sure we address public health to reduce the prevalence of youth usage, not to limit the choice of adults, why in the world would you give it to an agency, jeopardizing its core mission by prescribing to the agency an impossible task of bringing new, reduced-risk products to the marketplace?

Where would you create a new regulatory body where you grandfathered every product that currently contributes to death and disease and say: If new products are created that reduce the risk, that reduce the harm, we are going to make it unbelievably difficult for you to be able to market those products. I do not think that is what the term ''only in America'' was meant to portray. The insanity of what this institution is getting ready to do—why, the American people, they must think we are crazy by now. If they do not today, they will by the time this bill passes.

Again, Mr. President, I will be on the floor frequently between now and then. I am committed to not only point out the difficulties and challenges of the legislation that serves as the base bill but am committed early on to present a substitute bill that brings every bit as much regulatory oversight and responsibility to the tobacco industry but will allow new, less harmful products to come to the market that will allow adults—people of legal age—to choose to use those products, if they choose to, and especially to use them if they are trying to reduce their dependency on smoking. That is the way you reduce the risk of death and disease. You reduce the cost of health care in this country. It is not necessarily by allowing the FDA to have jurisdiction. If I was wrong, I would not point to these States that underfunded the commitment needed to successfully do cessation programs that were paid by the tobacco industry and in most cases found that the prevalence of marijuana use among youth is higher than the prevalence of tobacco use. Marijuana is illegal. Tobacco does have an age limitation.

Our belief that we can just wave a magic wand, give it to a new agency, and that youth numbers are going to go down—well, we might be lucky enough to get them to go down, probably not more than they are naturally going down. I wish we were here debating why the prevalence of marijuana use—an illegal drug—is higher among America's youth than tobacco is. I think the country would be better served if that were the debate we were having on the Senate floor and not a debate about how we jeopardize the safety and efficacy of drugs and devices and cosmetics and food safety in the future.

Mr. President, I yield the floor.

I suggest the absence of a quorum.

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

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. CARDIN. Mr. President, I rise in strong support of the Family Smoking Prevention and Tobacco Control Act. This legislation has been a long time coming, and for millions of Americans affected each day by tobacco addiction and the hazards of secondhand smoke, for hundreds of thousands diagnosed each year with lung or throat cancer, it provides potentially lifesaving protections that are long overdue.

I wish to commend Senator KENNEDY for his leadership of the HELP Committee in crafting this comprehensive bill. It will give the U.S. Food and Drug Administration the legal authority to regulate tobacco products, curb sales to children, and restrict misleading tobacco advertising.

For many years, the Federal Government has known about the addictive nature of tobacco products and the damaging effects of cigarettes on smokers. We have seen the seductive and deceptive advertisements that have targeted children, women, minorities, and even smokers suffering from tobacco-related illnesses. We have read the evidence spelling out the numerous carcinogens added over the years to increase consumers' dependency on cigarettes. Despite overwhelming data showing the products' destructive effects, the industry's representatives, under oath, refuted well-documented scientific findings about the additives in their products and concealed their own internal research reports.

So far, the Federal Government has been powerless to effectively regulate the industry. The bill before us tackles this obstacle head-on and gives the FDA the power it has lacked in years past to make Americans aware of tobacco's dangers and to reduce tobacco use. It is a much needed and responsible approach to the epidemic of smoking addiction in this country.

The toll taken by tobacco use in our Nation is devastating. State data compiled by the Campaign for Tobacco-Free Kids outlines the effects in my own State of Maryland. More than one in seven Maryland high school students smoke cigarettes, and each year 22,000 Maryland children try cigarettes for the first time. Of these, 6,600 become new daily smokers each year. Although the sale of cigarettes to those under 18 is illegal, 12.5 million packs of cigarettes are smoked by children in my State each year. It is clear that better tools and stronger enforcement of our laws are needed.

The mortality data shows why we must be alarmed by these numbers. More than 6,800 Marylanders die each year from their own smoking, and 780 nonsmokers die each year from exposure to secondhand smoke. For every person in Maryland who dies from smoking, approximately 20 more Marylanders are suffering from serious smoking-caused diseases and disabilities or other tobacco-caused health problems.

The Senate will begin to consider health reform legislation this month. A major goal of that effort will be to reduce health care costs in this Nation. Well, the legislation on the floor today is a good place for us to start.

It is estimated that the annual health care expenditures in Maryland that are directly caused by tobacco use totals almost $2 billion, and expenditures from secondhand smoke exposure another $79 million. Our State's Medicaid budget alone spends $476 million each year to address tobacco-related illnesses. We can save health care costs and save lives by passing a strong tobacco regulation bill and sending it to the President for his signature.

Perhaps the best case I can make for the passage of this bill comes from Ms. Geraldine Lloyd, who lives in nearby Frederick, MD. She is a courageous woman who has asked that her story be shared with Congress so we can take the necessary actions to protect the

American people. Geraldine started smoking at the age of 15 and became a pack-a-day smoker within the first year. Geraldine spent 15 years trying to quit smoking but was unable to do so.

Finally, Geraldine was diagnosed with throat cancer. After radiation and 17 surgeries, she has been left speechless and has to breathe through a hole in her neck. After 11 years of not smoking, she was diagnosed with lung cancer in 2004. In her own words, this is her story:

I was born in 1943, into generations of smokers. Both my grandfathers were North Carolina tobacco farmers, and my mother's father was a lobbyist for Liggett & Myers Tobacco Company. Although they died before I was born of heart disease and lung cancer, they remained vivid symbols of my roots, until four years ago, when I discovered that my mother's grandfather coined the term ''I'd walk a mile for a Camel'' and was paid royalties for the slogan until he died. It was also the last cigarette I smoked.

I'm absolutely certain that I was addicted as a child to secondhand smoke. I was constantly sick with chest infections and spent the best years of my life coughing and struggling to breathe. I loved sports, but never had the lung capacity to participate because I was in a futile cycle of withdrawal. I found no relief until I started smoking at the age of 15, escalating to a pack a day within a year.

I didn't try to quit until my mother died in 1975 from brain and lung cancer. But I couldn't. My father died four short years later, from cancer of the throat and the lung. They were both pack-a-day smokers.

Witnessing what smoking had done to them, I was determined to stop. I spent the better part of 15 years trying to quit, using every imaginable over-the-counter treatment as a way of escape. I underwent hypnosis, therapy, acupuncture, patches, gum, and could never remain abstinent for more than a few weeks. Each and every time I quit and began again, the addiction became more ruthless, leaving me less and less capable of coping without them.

I was diagnosed with throat cancer in 1993, and through the next four years I underwent radiation and surgery, and sixteen subsequent surgeries to save my esophagus. Lengthy stays in hospitals, and the stress of breathing through a stoma (a hole in my neck), relieved me of the physical addiction. Looking at myself in the mirror took care of the rest.

Since then, I have been speechless, with the aid of electro-larynx, and dedicated to helping children understand addiction to nicotine. In 2004, after a lengthy recovery, and 11 years of not smoking, I was diagnosed with another cancer, in the lung.

I'm in remission, but my life has been drastically changed. The compromised life I lived while smoking was a vacation compared to the life I've been forced to live since surviving cancer.

The collective and unspeakable horror of allowing an industry to run with a free license to kill is finally being heard. We represent lives of freedom and happiness robbed from nicotine addiction due to an industry that remains unregulated, with rampant freedom to manipulate their product to suit their greed. I have survived, but so many do not. Sometimes survival is the cruelest joke against tobacco's victims. The tobacco industry has been laying down a genetic map of pain, suffering, sorrow, and unconscionable human injustice for decades, and it is time for it to stop.

Mr. President, I want Geraldine Lloyd to know we have heard her message and we take it to heart. It is time to empower the Federal Government, through the FDA, to put an end to the tobacco industry's longstanding practices and to begin to eliminate the threat of tobacco-related illnesses that have taken so many American lives and harmed so many others.

I am proud to be a cosponsor of this legislation. I urge my colleagues to support it overwhelmingly. We owe it to our children, we owe it to our Nation, and we owe it to Geraldine Lloyd.

With that, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mrs. HAGAN. Mr. President, I know we are going to have a lot to say about the pending business, the FDA tobacco bill, over the course of the week. I have a number of amendments, and I know many of my colleagues also have amendments they wish to offer as well.

Those amendments and the specific concerns they seek to address we will have an opportunity to discuss when we get to that stage of the process. For the moment, I simply want to lay out some of my general concerns about this legislation.

This broad, sweeping legislation will have a devastating impact on the economy in my State of North Carolina and on the lives of many of my constituents. In my State, we have 12,000 tobacco farmers. We also have over 65,000 jobs in North Carolina tied to the tobacco industry. North Carolina generates about $587 million annually in farm income from tobacco. The economic impact of tobacco in North Carolina is $7 billion.

As you know, we are in the midst of an economic crisis, and the bill before us today is further going to devastate our economy in North Carolina by putting thousands of people out of work and exacerbating the already high level of unemployment throughout the State.

First, we are going to hear about how this bill will prevent youth from taking up smoking. I fully support that goal. In fact, I know that every day probably about 3,500 youth across the United States try their first cigarette, and another thousand become regular, daily smokers. Clearly, we have to do something to prevent youth smoking.

But the bill before us goes much further than that. It grants the FDA extremely broad authority to take actions that it considers to be in the interest of public health. That is an interesting standard—especially when you consider that cigarettes, when used as intended, are a dangerous, unhealthy product. I know that and you know that.

Given that cigarettes are an unhealthy product, asking the FDA to take actions in the interest of public health puts them in a very difficult position. It creates a practically unprecedented regulatory conundrum for the FDA that will require them to go much farther than the stated mission of reducing youth smoking.

Another issue is the product standards. Under the bill we are going to be considering this week, not only can the FDA take actions that reduce smoking, but they would also have the authority to change what actually constitutes a cigarette. I will discuss that point in more detail later, but I will state now that, unequivocally, this bill gives the FDA the authority to set standards for tobacco products, whether or not the technology actually exists today to meet those changing standards.

If we are, one, asking the FDA to set standards in the interest of public health and, two, we are giving them the authority to require the removal of harmful components from tobacco products—including components that are native to the tobacco leaf itself—and, three, if we are allowing them to move forward with these regulations even if the technology doesn't exist today, what do we expect the FDA to do? What would any of us do if we were in that position? This legislation puts the FDA in an impossible situation.

I will close by saying that I have many friends in North Carolina who are wonderful tobacco farmers. Many of their families have been growing tobacco for generations. I am very concerned about the impact this bill will have on their livelihood. I think that a reasonable compromise can be found on this bill, and I look forward to discussing some of the ways this legislation can be improved as we move forward in the process.

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

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

Ms. STABENOW. Mr. President, I rise to speak about an amendment that my friend from Kansas, Senator BROWNBACK, and I will be introducing at the appropriate time, to this very important underlying bill that we have in front of us. I want to particularly thank our majority leader for supporting this effort, given the important timing of this particular legislation to the economy and to those involved in our auto industry—our dealers in communities across the country. I thank him for allowing us to put this forward and hopefully have the support of colleagues to be able to place this on this bill so it can be moved to the President as quickly as possible. Timing is very much of the essence on this amendment.

I also thank Senators DURBIN, VOINOVICH, LEVIN, BROWN, MIKULSKI, LIEBERMAN, and others who are cosponsoring the legislation we have introduced, and those who are cosponsoring this amendment as well.

This is the Drive America Forward Act. It will save jobs in America. It will help our dealers across the country, both those who are going forward as dealers and those who, under Chrysler and GM bankruptcies, have been told that they will have to either liquidate or look for other options as business people. It will help stimulate the economy. This is very much a stimulus. It will save money for consumers. And it will also lower carbon emissions—all of that in one amendment. We are very hopeful that we will have a strong bipartisan vote at the appropriate time when this amendment comes forward.

Under the program that we are outlining in our amendment, consumers may trade in their older vehicles and receive vouchers worth up to $4,500 toward the purchase of a new vehicle that is more fuel efficient, a car or truck that is, in fact, more fuel efficient.

I thank colleagues in the House who have done terrific work on this particular piece of legislation. Chairman WAXMAN and Congressman MARKEY, and Congressman STUPAK and Congressman DINGELL from Michigan, worked together through the Energy and Commerce Committee in the context of the bill that was reported out a couple of weeks ago from Energy and Commerce on energy and climate change. They had this provision in their legislation. I thank them.

We have taken their language, working with them every step of the way. We have addressed some issues to allow dealers to make sure this is operationally going to work best in terms of the administrative side of it. We have combined those efforts into this amendment. It is critical that we pass it at this time.

It goes, really almost without saying, when we look at what happened yesterday with General Motors, when we look at what happened in terms of Chrysler—and we are looking for some very good news either by the end of this week or next week on Chrysler, hopefully to come out of bankruptcy—wouldn't it be a wonder that, as they do, we have in place an incentive program for purchasing new vehicles, turning in older vehicles and purchasing new ones?

We will get people back into these dealerships. We will be able to help communities across the country, neighborhoods, large and small, where the local dealership is, where, because of the economy, because of the lack of financing for too long—and we appreciate President Obama and the auto team in helping create the financing mechanisms for people to finance the purchasing of a vehicle and for dealers to finance their floor plans—for too long everyone was hit by the global credit crisis, the economy and the economy at large. We found an extremely difficult situation for dealers as well as the automakers and suppliers.

Obviously, there are still many challenges. We know that thousands of dealerships across the country are currently in peril. This is an opportunity to immediately stimulate auto sales, to bring people back into the dealerships, to turn in vehicles that are worth $4,500 or less—and this is a program where you are taking the old vehicle off the road, so we know we are not talking about somebody turning in a vehicle that is worth $10,000 or $15,000 for a $4,500 voucher—older vehicles, vehicles that we know are less fuel efficient, to turn those in, get them off the road, buy a new vehicle and, at the same time, have the other benefits that go with it.

We know that across the country it is not only the automakers about which I care deeply, as do others, and the great suppliers of the industry but the dealers, and from sales to administrative staff, to advertising outlets, to the local suppliers. Many dealerships are being forced to close or cut back because vehicle sales are down. This will help immediately. It couldn't come at a more important time.

The Drive America Forward Act will send buyers back to showrooms, keep people working in cities and towns across America.

President Obama called on us yesterday to pass a fleet modernization bill, to increase demand and get buyers back into the showrooms. Our bill does exactly that. Sometimes it is called cash for clunkers. Sometimes it is called fleet modernization. We call it a good old-fashioned jobs bill. This is Drive America Forward. That is exactly what we want to do with this amendment. It will stimulate the economy.

New vehicle sales are down nearly 40 percent compared to last year due, in large part, to the credit crisis, to job losses, and dwindling consumer confidence. It has affected every automaker, not only GM, Ford, and Chrysler, which I am very proud to have as part of Michigan's economy, but every single automaker has been affected which is why other countries have responded with similar plans.

If we look right now, auto sales are down 40 percent from last year. If we look at January to May of this year and January to May of last year, there is a 40-percent reduction. Imagine a dealer, an automaker or supplier trying to keep the doors open and 40 percent of their business is down. GM is down 41.8 percent; Toyota, 39 percent; Ford, 36.8 percent; Chrysler, 46.3 percent; Honda, 34.4 percent. We could keep right on going across the board as we look at auto companies and what is happening. This would be available to all the dealers, all the auto companies.

At this point, we want to make sure we are providing stimulus across the board in the economy. The average dealership employs 53 people, so we are talking truly about small businesses. That is almost 160,000 people nationwide, more than the combined workforce of GM and Chrysler. That is how many people work for dealerships. This is about getting people into the dealership, getting people back into a position to buy automobiles and to keep those folks working and keep the economy going in communities across the country. Moreover, local dealerships have cut spending on advertising, as companies have, which hurts newspapers and radio and television revenue at a time when local businesses are suffering. We know the stories. We have heard of the ripple effect. We have heard from those dealerships that are being given notice about closing, the impact of that.

I have said before, I grew up in one of those dealerships. My dad and grandfather, in a community of about 2,500 people in Clare, MI, had the Olds dealership. We were very proud of that. One of the side benefits for me is I always had an automobile to drive. That made me pretty popular among my friends, although they only let me drive the old ones. But the reality is, this is a part of the fabric of America. When we talk about my dad and grandpa's dealership, they were the ones sponsoring the Little League team and buying the ads in the newspapers and the nonprofits that were doing fundraising drives and so on. This bill, the Drive America Forward Act, will help places such as my dad's and grandpa's. That is what this is all about.

It is going to save money for consumers. The Department of Energy estimates that a consumer who drives a vehicle that gets 30 miles per gallon will save approximately $780 a year compared to a vehicle that gets 18 miles per gallon. We are saying under this program that if you have a car that gets 18 miles per gallon or less, you qualify. You turn it in, you can get a higher mileage vehicle and get from $3,500 to $4,500. We are saving consumers money by that.

In Michigan right now, everybody I know who is in Michigan could find a lot of ways to use $780 more as a result of that savings.

In addition to saving jobs, the program will save fuel. As buyers turn in their older, less-efficient cars, more fuel-efficient vehicles will take their place, and the fuel savings could exceed 1 billion gallons per year.

Finally, the bill helps lower carbon emissions. If the program removes 10 percent of the V–8 engines from the road, carbon dioxide emissions will be reduced by tens of millions of metric tons annually. It can take up to 20 years to replace most cars on the road today with new, more efficient cars. That could take longer because of the economic downturn. People are waiting to buy a new car. Automotive purchases are way down, about 40 percent. This will turn that around. This will help incentivize turning that around.

The oldest cars on the road are also the ones that pollute the most. The dirtiest 10 percent of the cars account for more than 50 percent of the smog and carbon monoxide. The dirtiest one-third of the fleet accounts for more than 80 percent of the pollution. The dirtiest one-third of the automobiles account for 80 percent of the pollution. I talk about these issues because they are very important. I also go back to the beginning. This is about a stimulus. This is a terrific thing, that we are adding cost savings and fuel economy savings and getting rid of carbon pollution. This is all very good. There will be others who talk about other ways to do this that would have more savings on that end. Unfortunately, it would sacrifice our ability to help the auto industry.

Right now what we have is the ability to do both. It is critically important that whatever we do, we make sure our American automakers can benefit. We have to make sure we are not putting in place something where the fuel efficiency standards, the goals are so high or written in a way that creates an incentive for foreign automakers, while curbing those folks right now who need our help the most.

This is a balanced bill. This gives us the ability to benefit from increased fuel efficiency. It gives us the ability to deal with cost, to deal with carbon pollution. But it does so in a way that, at the end of the day, treats American automakers fairly and gives them the opportunity fully to participate, so the Chrysler dealers we have been hearing from, the GM dealers, as well as the great Ford Motor Company will be able to benefit as much as the other companies. That is what this does. That is why there has been a tremendous effort put into this. It doesn't seem like it would take that much to put this together, but in order to make sure we are complying with our trade laws, so we were allowing any company to participate under our trade laws but making sure we were being fair to our own companies that have been here and created the middle class of this country and are going through so much right now, every single line has been reviewed and discussed and reviewed again.

The House did terrific work, putting together language that is fair for everybody. That is what this bill is all about.

In the context of talking about all the hard work, I thank my key staff person, Colleen Briggs, who has lived and breathed this issue for several months. I told her I would name this after her, at least in my office, because there has been so much work that has had to go into this effort. I thank her for her hard work. I thank also the White House auto task force that has been so committed to doing whatever we can to support jobs here, manufacturing jobs, auto jobs, and every way we can to incentivize, whether it is being able to get the financing one needs, supporting the industries as they go through the bankruptcy process or this incentive. I thank them for their support in doing that.

I also, once again, thank my friend from Kansas who has been a stalwart on this issue. We have had a true partnership on this which I appreciate very much. I very much appreciate that both of us are leading this effort, as well as other colleagues on both sides of the aisle who are cosponsoring this amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. BROWNBACK. Mr. President, I am delighted to join my colleague from Michigan in support of this bill. This is the right way forward. She has outlined most of the provisions, and I will add a few points, if I may.

It is a humbling time for auto manufacturers globally. She went through the figures for all auto manufacturers, and there has been a huge falloff in the market. As the global credit crisis has impacted the world, maybe the industry hit the most has been automobile manufacturing on a global basis. We saw the numbers in the United States. One of the ways other countries have responded is with what they call scrappage programs. We have heard it referred to in different terms but several countries have looked at doing a type of scrappage program. It has been very successful. I was looking at the numbers. In March, Germany, France, and China saw increases in car sales—all three did scrappage programs—of 40 percent, 8 percent, and 8 percent, respectively.

During the same period of time, the United States and the United Kingdom did not have scrappage programs, and we saw declines in car sales of 37 percent here and 30 percent in Great Britain. That is the difference these programs are making on a global basis because the credit crisis has hit this industry the most. A lot of things one has to buy on a regular basis. We have to buy gasoline, food, shoes for the kids. But often, for a lot of people, they look at their car or pickup, and they say: I am not sure what is going to take place. I will hold off on this one. So they hold off and the sales tank. That is what has taken place. People say: I am not sure what is going to take place; therefore, I am going to hold off.

I have a brother who is a veterinarian who was saying to me the other day—he has an old pickup in his business. He is doing just fine in his business. He said: I am just going to wait a while. I said: No. This is the time we need you in the marketplace. This gets him back to the marketplace. It has been proven effective in other countries to get people back in the marketplace. It has worked in other places. We now see that the United Kingdom—that did not do the scrappage program—has enacted their own scrappage program. That is another reason why I think we should do that one here.

There is another point, and I think it is an important one to make. It is often very difficult to find ways to support manufacturing without breaking international trade rules because we have a number of international trade rules that restrict what governments can do to help a particular industry.

As to the World Trade Organization, this is a legal and consistent way for us to help automobile manufacturing without breaking any trade rules. That is important because we cannot be getting into some sort of trade sanctioning or there being offsets to it. This one is consistent with that.

Another thing I think is very important—and my colleague from Michigan was very good to talk about this—this is a balanced approach that helps the environment, helps the economy, and helps our energy sector as well with us being more efficient with energy.

I think as we move forward with concerns about CO_2, concerns about the environment, concerns about the economy, concerns about domestic energy production and the need for domestic energy production, we have to balance the three Es: energy, the environment, and the economy. This bill does that. So here you are stimulating the economy, reducing your energy demand, and improving your environment—all at the same time.

And this bill—and this, to me, as a fiscal conservative, is the key point—also uses funds that have already been appropriated. There is no new money on this bill. These funds have been appropriated. They are going to be reprogrammed. I believe they will be reprogrammed. We are being told by the Obama administration that if this passes, this will be implemented with reprogrammed funds. So those funds—having already been approved by the Congress—would be used in a more effective way for a consumer-driven economic stimulus that helps the local dealerships, that helps the car manufacturers, that helps the environment, that helps our energy dependency in a very positive way.

It has worked around the world. It will work in the United States. It will get people such as my brother back in the showroom, I hope. I am certainly going to push him to do that, as all of us will. We have seen an unprecedented falloff in car sales. It helps in a State such as mine where there are a lot of work trucks being used. This voucher program is targeted for use and utility by businesses that use trucks, and they can use that on this one as well. It works, and it helps out there.

For all those reasons, I urge my colleagues to support this bill. It is balanced. We have worked a long time on it.

Senator STABENOW recognized her staff member. I have had Landon Fulmer in my office working for some period of time on this issue to get it to where it would work. It would be simple, it would be direct, it would hit, and it would hit quickly. He has

worked to do that, as her staff has. I think we have got a good product here, and it is not any new appropriated money.

I would say particularly to my colleagues on my side that I am very concerned about where our deficit and debt is going. This is no new appropriated money to do this, which I think is key.

For those reasons, I urge the backing of this bill.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. CHAMBLISS. 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. CHAMBLISS. Mr. President, I rise today to discuss the Family Smoking Prevention and Tobacco Control Act.

Let me be clear from the outset. Thanks to public information campaigns that have been waged for decades, the 45 million Americans who smoke already know that cigarettes are dangerous. If you smoke, chances are you could die from smoking.

This legislation does little, if anything, to change that. The proponents of the bill say it is public health legislation that will lower the cost of medical care. That is a very noble goal. Everyone is in favor of saving lives and bringing down health care costs.

But this bill will not accomplish that. Instead, it engages in overregulation with no practical effect on smoking rates. The Congressional Budget Office says it would only result in a 2-percent reduction in smoking rates over 10 years and would have a minimal impact on health care savings.

Meanwhile, according to the Centers for Disease Control and Prevention, smoking rates are already declining an average of 2 to 4 percent over that same period of time. So according to the CDC, if we do nothing, we will still have a decline in smoking rates equal to or greater than what CBO says this bill will do.

The goal of any Federal tobacco regulation should be to keep children from smoking or using tobacco products and to help adult users stop or, at a very minimum, to use a less harmful product. But the bill does just the opposite. If this bill passes, cigarette manufacturers such as Philip Morris and Reynolds America will be prevented from using the terms ''light'' and ''low tar.'' That means their cigarettes will still be on the market but under different names, not leading to fewer smokers, but leading to consumer confusion.

Just as bad is the overregulation that this bill will put on the already beleaguered tobacco farmer, in effect, helping put those who are left out of business. It would allow the FDA to enter just about any tobacco farm in the country. And it would indirectly require tobacco manufacturers to dictate production methods to farmers. It would also require the development of a new, unnecessary regulatory process at the FDA to set pesticide residue tolerances. This would duplicate a process that already exists at the Environmental Protection Agency. It makes no sense to pile these new responsibilities onto the FDA since the agency is barely able to keep up with its present duties.

Oddly, under this bill, the FDA—an agency that is designed with ensuring the safety of drugs—would be given regulatory authority over an inherently dangerous product.

Again, cigarettes will kill you. We have known that for decades. Even if the FDA managed to cut smoking-related deaths in half, it would still be vested with regulating a product that kills 200,000 people each year.

The American Association of Public Health Physicians has said that even if the FDA has the authority to remove some harmful ingredients in cigarettes, changing the chemical nature of tobacco itself or lowering nicotine levels will not measurably reduce tobacco-related illness and death.

This bill is slated to spend $5.4 billion taxpayer dollars to provide even more Federal regulation which will have no real effect. About a quarter of that money will be raised off the backs of our men and women in uniform, who will be forced into a mandatory thrift savings plan program to pay for yet another Government program that simply does not work.

This legislation mandates TSP participation for new Government and military personnel. This may sound good in theory, but even with an opt-out provision—which the legislation does call for—it is bad policy for our soldiers, our sailors, our airmen, and marines, who, at junior ranks, frankly, earn very little money and are often under 20 years of age. That is why the Chairman of the Joint Chiefs of Staff opposes this provision and says if you are going to have any revenue-raising money, it should be an opt-in provision with respect to TSP for our military men and women.

Mr. President, I ask unanimous consent that the letter from Admiral Mullen, Chairman of the Joint Chiefs of Staff, be printed in the RECORD.

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

CHAIRMAN OF THE JOINT CHIEFS OF STAFF
Washington, DC, May 29, 2009.

Hon. JOHN MCCAIN,
Ranking Member, Committee on Armed Services, U.S. Senate, Washington, DC.

DEAR SENATOR MCCAIN: Thank you for your letter of concern regarding H.R. 1256, the Family Smoking Prevention and Tobacco Control Act.

I have reviewed the legislative language and the Services' views on the pending legislation. I disagree with the language contained in H.R. 1256, Division B, Title I, Section 102(a)(2)(E)(ii). While this language allows for Services to suspend automatic enrollment, which is the preference of the Navy, Air Force, and Marine Corps, I disagree with placing the onus on the Service Secretaries to ''opt-out'' of automatic enrollment.

My recommendation is that the language should be written to reflect that the Service Secretaries must ''opt-in'' if they desire to make enrollment in TSP automatic for Service members.

Thank you for your concern regarding the financial well being of our Service members. I am sure you will agree with me that financial education by our senior leaders is paramount, and I have every confidence in their abilities.

Sincerely,

M. G. MULLEN,
Admiral, U.S. Navy.

Mr. CHAMBLISS. Mr. President, we may not like smoking, and we should do everything we can to keep cigarettes away from children. But adults in this country have a choice, and many of them, aware of the inherent dangers, still choose to smoke. Spending billions of taxpayer dollars on an ineffective program to convince them otherwise, while regulating our farmers out of business, and taking away more of our troops' paychecks, is not good policy. It is more shortsighted government.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. COBURN. Madam President, I wish to speak for a few minutes on the bill we are proceeding toward and to ask a few questions of the American public.

We have a bill that is going to regulate tobacco, and I am OK with us regulating tobacco. I do not have any problems with it. I think we should do it. What we should be doing is banning tobacco. Nobody up here has the courage to do that. It is a big business. There are millions of Americans who are addicted to nicotine. And even if they are not addicted to the nicotine, they are addicted to the habit.

But we have a bill, we are trying to do something positive, and we find ourselves constrained by our own shortsighted vision. We have an agency called the Food and Drug Administration. I have had a lot of experience with them. I manufactured medical devices in the 1970s and had several investigational new drug permits under them. I know the rigors under which INDs are managed and the care that is put forth by the employees of the Food and Drug Administration, as well as their advisory councils, as we go through that.

But if we go back and look at the charge of what the Food and Drug Administration is, the Food and Drug Administration is about safety and efficacy—''safety,'' meaning they are responsible to make the judgment that if we are going to approve this medicine or this device that is within an acceptable risk—there is always going to be down sides to anything they approve, but within an acceptable risk, in total, it is going to be better for the country.

In this bill, we allow existing tobacco products not ever to be eliminated. So we are going to take products that we know are not safe and we know are not efficacious and we are going to apply the resources of an agency that is having trouble meeting its demands right now, as well as meeting the demands of food safety right now, and we are going to take resources and put them there.

The first problem with that is we send a totally mixed message to the Food and Drug Administration: Your job is no longer about safety and efficacy; your job now is to warn everybody about the downside of tobacco.

We know that. What we have to do is stop new addiction. We know that. If we really want to make a difference in health and we want to eliminate dependence on tobacco, what we have to do is to stop the addiction. We have had all of these lawsuits through the years where billions of dollars have gone into attorneys' coffers, and about 40 percent of it has gone into, supposedly, stop-tobacco-use programs, and we are going to say to the Food and Drug Administration: Your job is about safety and efficacy, making sure that what it says it does, it does, and we are going to turn them into a different kind of agency. I believe that is where this bill is misdirected.

We ought to have an agency that does control tobacco, that does heavily regulate its advertising in terms of the warnings on the packages, in terms of limiting what young people can get to, so we can actually stop this trend toward addiction. But to do it in the Food and Drug Administration sends a mixed message: No longer is our job efficacy, no longer is our job safety; our job is to control advertising, we are going to control packaging, we are going to control and have them report to us on the contents of all of these thousands of bad products that are associated with tobacco, that are in tobacco—not just nicotine and not just the effects of the tobacco, whether it be inhaled or chewed or sucked on. The fact is, we are going to change the direction of the agency.

So what should we do? We should regulate tobacco. We should set up a way for us to do that which will effectively stop new addiction, especially among young people because that is where it starts. It starts with the young, and there are certain personality types as well as certain genotypes that, even with some of the medicines we have today, cannot wean themselves from the addiction to nicotine.

So why wouldn't we go another way? We have the Department of Health and Human Services, of which FDA is a part. Why wouldn't we create a smaller agency that is just about tobacco, just about regulating tobacco, so that we can see clearly—and we can also do it, by the way, for about a fourth of the cost of what it is going to cost to do it under the FDA. So for one-fourth of the cost, we can create a new agency within HHS that will be solely focused on this and this only, that will have one primary objective, and we will force and guide and direct and measure whether they are accomplishing their purpose. Instead, we are going to hide it in another agency that is struggling today.

We are at $400 million to get a new drug through the FDA right now. That is the cost of processing. That doesn't even talk about the research costs, but the new drug. That is just the cost to get it through the trials and get it through the FDA. We have all of these drugs today that aren't approved, that could be saving people's lives, because we can't get it through the FDA. And now, what are we going to place on the FDA? We are going to place the regulation of tobacco on the FDA.

Tobacco is not safe. In no way is it efficacious for any individual. Yet we are going to put a segment within the FDA and say: Run it the way you are running the rest of the business. It makes absolutely no sense to me. It doesn't mean that the goal behind this legislation isn't a good goal. It is. It is a good goal, but how we are doing it and where we put the control of this is totally counterintuitive.

I think if you would ask anybody in America, you want the people who are approving the drugs that are good for you to also control—why don't we put alcohol under them? Why don't we put the DEA under them, under the FDA? If, in fact, we want a controlling agency, then let's move it to the DEA—the Drug Enforcement Agency—or Alcohol, Tobacco and Firearms, right? Why don't we put it in ATF? We already have other agencies. But to put it in the FDA, when the total goal of the FDA is to approve new products for our benefit, our safety, and to cure health needs—tobacco creates health needs; it doesn't cure them. The only thing I know that it cures is if you get a wasp or a red hornet sting and you take some chewing tobacco and put it on the sting, it takes the pain away. I experienced that a lot as a young boy. My grand dad would pull it out and put that plug right there, and the pain would go away very quickly. That is the only efficacious thing I know about tobacco.

So I would just ask my colleagues to think again about what we are doing. Let's do the intent of the bill, but let's do it in a way that makes sense, that doesn't send a cross signal, and either put it into one of the other organizations we already have that is handling products that are bad for Americans—not products that are good for Americans—or let's put it into a separate agency where we can see it transparently and clearly.

I wish to make one other point. Inside this bill is the banning of any new nicotine products. I wish to tell my colleagues that is totally shortsighted. If you are a smoker today and we could get you off of smoking even though we still give you nicotine and we can do that through a new product, such as a dissolvable flavored lozenge, where we supply the nicotine addiction to your body but you are no longer creating lung disease, chronic obstructive pulmonary disease, bolus emphysema, or increasing your chances for heart disease and hypertension, markedly increasing your chances for lung cancer, if we could convert that to something that would satisfy the demand yet wouldn't harm the rest of your body—we ban that in this bill. We stop all positive movement through commercial products to create a nicotine source that is other than chewing tobacco or cigarettes or cigars.

So why would we want to do that, especially if, in fact, we could take these millions of smokers today who, most of them, their habit is—there are two addictions they have. One is the nicotine craving that actually hits at the intercellular level. It is called a nicotinergic interface in terms of receptors on certain parts of the body. If we could do that in a way that would allow us to put nicotine in there to solve it but not cause all of the other disease, why would we say with this piece of legislation that we are never going to let that happen? Yet we are. I don't understand it. We could do that in a way where that could be highly restricted to only people who had a prescription, where they were already nicotine addicted.

So there are things we are missing in here from a general health standpoint that are going to be very harmful because what we are saying is: You can use the nicotine patch, you can take some of the new drugs that work in the brain to relieve the nicotine addiction, but rather than supply something in a harmless way that has no other ill health effects—I don't understand why we would not do that.

So I would appreciate my colleagues considering my comments. I believe the FDA is the last place we ought to put this. I think we ought to do it. We ought to change some of the things on how we are going to do it. We ought to create a capability to have nicotine supplied other than through chewing tobacco or cigars or cigarettes so that we can take the effects of it that we know are very harmful today and lessen them for the citizens who are addicted to nicotine.

My hope is that we wake up before we pass this bill because what we are really going to do is we are kind of shooting ourselves in the foot. If we really want to stop and help those people who are already addicted and really want to prevent new addictions, then

we have to allow for some of these new products, and we ought to do it at an agency that doesn't have purposes counter to what the charge of that agency is.

With that, I yield the floor to my friend from Oregon. I also thank him for being so kind to allow me to go first.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. WYDEN. Madam President, before he leaves the floor, let me tell the distinguished Senator from Oklahoma that I very much appreciate working with him on health care legislation. We did it in the House, and we are going to do it again. I think this time the Senate is going to make history and have comprehensive health reform, and I look forward to working with my colleague on it.

I come here today to express my strong support for the Family Smoking Prevention and Tobacco Control Act. The lead sponsor of this legislation is, of course, Senator KENNEDY. I say ''of course'' because the fact is, for four decades Senator KENNEDY, often against great odds, has consistently come back again and again to lead the fight to improve health care for the people of our country. Sometimes it was for children. Sometimes it was for seniors. Sometimes it was for the disabled. Sometimes it was for those who have suffered mental illness. I could go on and on, and we would be here until breakfast time if I were to try to itemize all of the major pieces of health reform legislation Senator KENNEDY has authored over the last four decades. It is very appropriate that he is the lead sponsor of this legislation. The fact is, after Congress passes this important bill and takes steps to improve public health, we will be very fortunate that Senator KENNEDY is going to lead the Senate once more on comprehensive health reform. I wish to make clear as a member of the Senate Finance Committee that I am very much looking forward to Senator KENNEDY's involvement in this issue and his championing of the cause of fixing American health care. He has been the leader on this issue for four decades.

I come to this topic with I think a personal perspective that also affects my role as a policymaker. In 1994, when I was a Member of the House, I served on the Health and Environment Subcommittee. It was chaired by HENRY WAXMAN, a great champion of trying to protect children against the dangers of tobacco. Chairman WAXMAN had the CEOs of major tobacco companies before his subcommittee. He put all of the CEOs under oath, and as expected, Chairman WAXMAN did a tremendous job in terms of laying out the case for public health. In fact, he was so effective, that by the time it came to my turn, I was hard-pressed to find a question he hadn't already asked the tobacco CEOs. Just as I was thinking about packing up, I turned to some of Chairman WAXMAN's staff, who are wonderful public servants, and I asked whether any of the members of our committee had asked the tobacco executives if they thought nicotine was addictive. The staff all told me nobody had. They said: You ought to ask them. I wish to take a minute to lay out that historical record of what happened.

I asked each one of the tobacco executives that day back in April of 1994 whether they thought nicotine was addictive. The president of Philip Morris spoke first and said:

I believe nicotine is not addictive, Yes.

Then the chairman and CEO of Reynolds Tobacco Company spoke and said:

Mr. Congressman, cigarettes and nicotine clearly do not meet the classic definition of addiction. There is no intoxication.

Then the president of U.S. Tobacco spoke. He said:

I don't believe that nicotine or our products are addictive.

The chairman and CEO of Lorillard said:

I believe that nicotine is not addictive.

The chairman and CEO of the Liggett Group said:

I believe nicotine is not addictive.

The chairman and CEO of Brown & Williamson said:

I believe nicotine is not addictive.

Finally, the president and CEO of American Tobacco said:

I, too, believe that nicotine is not addictive.

I made a vow after I had asked that question that during the time I would have the honor of serving in the House and later the Senate, to make an effort to do everything I could to hold tobacco companies and other companies that mislead the American people accountable. Today, we are able to do that because of the outstanding leadership of Chairman KENNEDY. He is giving us the opportunity to hold accountable the tobacco companies that mislead the public with respect to their marketing practices and with respect to advertising. The Kennedy legislation is, in my view, very much needed to protect the public health—particularly the health of our young people—because it will give us the authority to hold the tobacco companies accountable for their actions.

This is also relevant to the next major health bill that we will be dealing with in the Senate which will take the form of comprehensive health reform—health reform that ensures all Americans have good, quality, affordable coverage and, particularly, does so in a way that holds costs down.

I, gratefully, had a chance to meet with the President today at the White House. The President, who has clearly signaled this will be a top priority for him, has now sent the message that history, to a great extent, is going to judge us on our ability to hold down runaway health costs and cut costs for American families.

In my home State alone, $1.1 billion in health care costs are directly attributed to smoking per year, and it costs the Oregon Medicaid Program nearly $287 million per year. Nationwide, $96 billion in health care costs are directly attributed to smoking. This includes $24.7 billion in smoking-caused Medicare expenditures.

There are enormous financial costs specifically associated with people at an early age getting addicted to tobacco use. Then, of course, there is the extraordinary loss of life that comes about as a result of tobacco. According to the Centers for Disease Control, in the United States, over 400,000 deaths each year are directly attributable to tobacco use. The FDA has given the authority to regulate food and prescription drugs, and it certainly makes sense that the FDA regulates tobacco, which is responsible for the death of over 400,000 Americans per year.

The Senate, because of the leadership of Senator KENNEDY, has the unique opportunity to reduce the financial and human toll of tobacco. I wished to recount, briefly, that hearing in 1994, because ever since that time, when the tobacco executives said under oath that nicotine wasn't addictive, I have wished to be part of an effort to hold the tobacco companies accountable when they mislead the American people. As a result of the outstanding leadership of Chairman KENNEDY, it is possible for the Senate to finally hold these companies accountable by passing this legislation. I hope that Senators on both sides of the aisle will join me and Chairman KENNEDY in supporting this long overdue bill.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. DURBIN. Madam President, this week the Senate takes up a bill that is long overdue. It is a historic opportunity for us to finally protect our children in this country from tobacco addiction. I didn't realize, when I was elected to the House of Representatives, in 1982, that the issue of tobacco would be a major part of my congressional activity. My family, similar to virtually every family in America, has been touched with tobacco death. My father died when he was 53 years old of lung cancer. I was 14 years old. He smoked two packs of Camels a day back in the 1950s, when even doctors were saying in magazines how safe it was to smoke. His cough was a sound I will carry to the grave in my memory. When I hear that smoker's cough, I can pick it out of a crowd. As a kid, I heard it over and over, night after night, day after day, until he passed away on November 13, 1959. That is my story on tobacco. Every family in America has a story to tell.

Tobacco products are some of the deadliest products sold in America but, unfortunately, the least regulated.

The tobacco industry has been successful in keeping tobacco products outside the regulatory authority of the FDA. They said it is not food and it is not a drug; therefore, we are exempt. That specious argument continues until this day, when we are finally facing reality. Tobacco is, in fact, a carrier of a drug—nicotine—which is addictive. That addiction is what leads to more smoking, more tobacco exposure, and more death.

The Family Smoking Prevention and Tobacco Control Act is a strong bill that will protect the public health and reduce tobacco use, especially among kids.

Forty-three million American adults currently smoke. That is one in five. Ninety percent of them started smoking in their teenage years, before they were adults. You wonder why. Well, I remember, when I was a kid, the first time my cousin, Mike Peterson, and I decided to sneak out behind the garage with cigarettes and try them out. It was an adventure. We were being like the grownups whom we wanted to be like someday. Luckily, for me, I stopped. Mike didn't. Mike passed away 10 days ago. He was a year younger than I, but, unfortunately, the ravages of tobacco and the addiction lead to cancer, COPD, and ultimately cost him his life at the age of 63. That happens a lot. Some kids quit, some kids don't quit; those who don't quit get addicted. Their addiction can lead to death, as it did for my cousin and childhood friend, Michael Peterson.

Every day in the United States more than 3,500 kids try smoking for the first time. A thousand of them become regular daily smokers.

In Illinois, almost 20 percent of the kids smoke, and together they consume about 34 million packs of cigarettes a year. We know tobacco is the largest preventable cause of death in America. For the longest time, the tobacco lobby held Congress in the grip of its hands. It would not allow the passage of any significant legislation. It was too powerful.

We knew their power meant they would be able to continue to sell their products, leading to devastating results. A few years back, I decided to take them on. It wasn't to get even for my own family circumstance, but I thought there was an unfair and unjust situation. It resulted in a change in the law, which changed a lot of things in this country. Mine was the first bill to pass the ban smoking on airplanes. At the time, it was considered a fool's errand to try to defeat the tobacco lobby. When I offered the bill in the House of Representatives, it was opposed by the leadership on both sides of the aisle, Democrats and Republicans. Somehow or another, through faith and good luck and the help of people such as former Senator and Congressman Claude Pepper of Florida, I was able to bring this matter to the floor for a vote, and I won, to my great amazement. We banned smoking on airplanes for flights of 2 hours or less.

Eventually, Senator LAUTENBERG picked up the issue in the Senate, and he showed amazing leadership in passing it in the Senate. The two of us managed to make this the law of the land. I don't want to take too much credit, but once people started thinking: If secondhand smoke is unsafe in an airplane, why is it safe in a train or in a bus or in an office or in a school or in a hospital or in a hallway? Pretty soon, the dominoes started falling across America. Laws were passed—local, State, and Federal laws—which have made smoking the exception in closed quarters and have changed the way we look at smoking today, from the time just 15 or 16 years ago, when it was considered to be the normal thing to do and objecting to it was considered out of normal.

That has changed, but still there is a lot to do. The tobacco industry hasn't stopped. They are still selling and marketing their product. As they do, more and more people become addicted, get sick, and many of them die. Tobacco companies, it was found in 2006 by Judge Kessler in the U.S. Court of Appeals in the District of Columbia, issued a final opinion finding that the tobacco companies had engaged in a decades-long scheme to deceive and defraud the American public.

Last month, a three-judge panel of the U.S. Court of Appeals for the District of Columbia issued a unanimous opinion upholding Judge Kessler's finding of liability. Let's review some of Judge Kessler's findings. He found the tobacco industry falsely denied, distorted, and minimized the significant adverse health consequences of smoking for decades. The tobacco companies were aware that smoking and nicotine are addictive, but they publicly denied it.

Just 15 years ago, the CEOs from seven major tobacco companies stood before a committee of the House of Representatives, raised their hands, and swore under oath that nicotine was not addictive. That was the death knell of their credibility. People knew better. I knew better. My dad died from lung cancer. He couldn't stop smoking. My friend Mike Peterson died of COPD. He smoked a cigarette the night before he died. He just couldn't stop. It is a terrible addiction.

The tobacco industry falsely denied that they can and do control the level of nicotine delivered in order to create and sustain addiction. They knew they were piling that chemical into their product, and they knew that as long as they could, they had you hooked and it would be darn tough to quit.

Tobacco companies falsely marketed so-called light and low-tar cigarettes. They turned out to be just as harmful as the others.

From the 1950s to the present day, tobacco companies have intentionally marketed to kids. Of course you want to convince kids to smoke because they are not mature enough to make the right judgment. If a kid waits until he becomes an adult to decide to smoke, he is not going to do it. He will be a lot smarter. He will not be addicted. Tobacco companies track youth behavior and preferences and use marketing themes that resonate with kids.

The list goes on and on and clearly demonstrates that this industry cannot be trusted to do the right thing. That is why we need the bill that is on the floor of the Senate.

The tobacco industry has a long and disturbing history of marketing its products to kids and young people. The financial reasons are obvious. Ninety percent of adult smokers began smoking cigarettes when they were teenagers or younger.

In the 1980s, R.J. Reynolds was looking for a way to revitalize its Camel brand, which was primarily popular with older smokers. To increase Camel's appeal to younger smokers, it created the Joe Camel cartoon character. Joe Camel became as recognizable as Mickey Mouse with a lot of kids—just what the folks who made Camel cigarettes wanted. While Joe Camel is no longer around, the problem of marketing to young people still remains.

Tobacco companies doubled their marketing expenses between 1998 and 2005. They now spend over $13 billion a year on marketing. They claim they don't market to kids, but just look at this ad. How about this one: Great Camel cigarettes. They are offering a back-to-school special. That certainly is marketing to kids. We know as parents and adults exactly what they are trying to do. This picture was taken from a shop in Camden Wyoming, DE. They knew what they were trying to do—lure these kids into tobacco at an early age—and their advertising did its best to draw them in. These companies are not going to waste a penny advertising on groups they don't think they can win over. So they go after the kids.

This bill recognizes the importance of curbing marketing to kids. It would empower the Food and Drug Administration for the first time to establish reasonable marketing restrictions that adhere to our first amendment guarantees under the Constitution. For example, the bill bans outdoor advertising near schools and playgrounds, prohibits colorful and alluring images used to appeal to young people. It limits ads to only black-and-white text in newspapers and magazines with significant teen readership. It ends incentives to buy cigarettes by prohibiting free giveaways with the purchase of tobacco products. Remember all the stuff they used to peddle in the name of cigarettes? Backpacks and caps—you name it. That kind of stuff is going to end. It gives the FDA the authority to respond to the inevitable innovative attempts by tobacco companies to get around these restrictions. It strengthens restrictions on youth access to tobacco

products by requiring retailers to verify the age of all over-the-counter sales of tobacco products and prohibits vending machines and self-service displays unless they are in adult-only facilities.

In addition to restricting marketing and youth access, the bill lifts the shroud of secrecy the tobacco industry has used to hide the contents of its products for decades. For virtually all other consumer products, manufacturers are required to disclose what is in their product. Walk into any grocery store, take a product off the shelf, and you will see a list of ingredients. But cigarettes and other tobacco products, some of the most dangerous products American consumers can buy, do not have to follow the same rules as other consumer products. The tobacco industry does not want you to know what is in its products, and for good reason.

Cigarettes are not just tobacco leaves rolled up in paper; they are sophisticated, highly engineered products. In addition to tobacco leaf, cigarettes contain additives and chemicals that increase the kick of nicotine and mask the harshness of tobacco smoke. The act of lighting a cigarette creates a toxic soup of more than 4,000 known chemical compounds, all carefully added to that little cigarette in the hope that you will enjoy it so darn much you will become addicted for life. According to the National Cancer Institute, there are 69 known and probable carcinogens in cigarette smoke. Is it any wonder people develop cancer from smoking?

Researchers at Harvard University School of Public Health have also discovered that tobacco companies increased nicotine levels in cigarettes by nearly 12 percent between 1997 and 2005. They were pumping nicotine into these cigarettes knowing it was more addictive, knowing they had these folks hooked for life.

This bill ends the special treatment of the tobacco industry by requiring manufacturers to disclose to the FDA the ingredients, including substances in the smoke, of each brand of tobacco product. It requires the Secretary of Health and Human Services to publish a list of harmful and potentially harmful constituents in each brand of tobacco products and requires tobacco companies to provide information they have on the health effects of existing and future tobacco products. Why did it take us so long to do this? We knew for decades what was going on here. But the tobacco companies were just too powerful. They stopped us. Now we have a chance to change that. This bill on the floor will finally give consumers across America the information they need, the information which researchers need to stop this insidious addiction.

For a product as deadly as tobacco, public disclosure of ingredients is not enough. The FDA should be able to require the industry to reduce or eliminate harmful ingredients or additives to protect the public health. For decades, the industry has manipulated its products at the expense of American consumers. No other industry in America is allowed to freely choose the types and amounts of toxic substances that are in their products—only tobacco companies, and that is going to end with this bill. This bill gives the Food and Drug Administration the authority to set standards to reduce these harmful ingredients, to reduce nicotine levels, and to ban those candy and fruit-flavored cigarettes popular with kids.

Another long overdue reform is to establish a credible process for ensuring that health claims about tobacco products are scientifically proven. Almost as soon as cigarettes became a widely used product, companies started making false claims.

In the 1920s, Lorillard came up with a slogan: ''Not a Cough in a Carload.''

In the 1930s, Philip Morris said smoking their cigarettes was less irritating than other brands and ran ads advising the public to ''Ask Your Doctor About a Light Smoke.''

In the 1940s, R.J. Reynolds ran an ad campaign for Camel cigarettes with the slogan ''More Doctors Smoke Camels than Any Other Cigarette.''

In the 1950s and 1960s, tobacco companies introduced ''light'' and ''low tar'' cigarettes to ease the growing concern about the harmful effects of smoking. The marketing of these light and low-tar cigarettes was so successful that they quickly dominated the market. Some advertisements explicitly encouraged smokers to switch to these new products instead of quitting. But the tobacco companies never had to demonstrate these new products would actually reduce harm. In fact, scientific evidence has shown light and low-tar cigarettes have not lowered health risks.

Tobacco companies continue to develop new products and make health claims that cannot be validated. This bill will prohibit tobacco companies from using misleading descriptors such as ''light,'' ''mild,'' and ''low'' to describe their products. It gives the FDA authority to review a product before it can be marketed as a ''reduced harm'' product to ensure sound science is behind that claim. These are reasonable requirements for any product in America and certainly for a deadly product such as cigarettes and tobacco.

The warnings currently displayed on cigarettes and smokeless tobacco products are more than 20 years old. Let's be honest about this. The warnings on cigarette packages are widely ignored. They have been virtually the same for decades. People don't even read them or pay attention to them. But that is going to change. This legislation requires large, clearly visible warning labels on 50 percent of the front and back of a pack of cigarettes, with graphic and textual messages such as ''Warning: Cigarettes Cause Cancer.'' You will not be able to miss it. You may miss some of the advertising and colorful photographs, but the message is going to be clear for anyone who can read. Warning messages are to comprise at least 20 percent of an advertisement. That is a big change.

This is something we introduced 20 years ago to finally change these warning labels. Congressman HENRY WAXMAN has been a great champion and advocate on this subject. We just could not pull it off. The tobacco companies were too powerful. Now we have a chance to beat them with this bill on the floor. These reforms will start to reduce the terrible toll tobacco has taken on families across the Nation.

I used to say from time to time when I would reflect on this and people would say: You are going too far, DURBIN, just too much regulation, I have yet to meet the first parent who has said to me: I have great news. I just learned last night that my daughter started smoking. I never heard that said. We know intuitively as adults it is a terrible thing when a child takes up smoking and use of tobacco. It can lead to an addiction that can harm them.

The FDA is the right agency to do this. It is the only agency with the science, the regulatory experience, and the public health mission to get this job done. Through a user fee on the industry, the bill gives the agency the funding it needs to get this job done.

This is a strong public health bill and a bipartisan bill. After more than 10 years and, in my case, more than 20 years, we have never been so close to giving the FDA the authority to regulate tobacco products. I urge my colleagues to resist efforts to weaken this bill or to add provisions that jeopardize its enactment. FDA regulation of tobacco products is long overdue. The time for Congress to act is now.

I would like to say in closing that it is a shame that my colleague and friend, TEDDY KENNEDY, is not here. He is recovering, as we know, from his own battle with a brain tumor. I talked with him a couple weeks ago, and he sounded just great. I wish he could be on the floor with us because I know how much this bill means to him personally. TEDDY KENNEDY, on this issue and so many others, stood there and fought that lonely battle, faced rollcall after rollcall when he could never get enough votes. And now the moment is at hand to come up with the votes necessary. In his name and in the name of all the people over the years who have fought so valiantly for tobacco regulation, people such as Congressman Mike Synar of Oklahoma and TEDDY KENNEDY—all of them dreamed of the day when this would pass. We now have a chance, this Senate in this Congress this year, to finally do something to start saving lives across America and bring the kind of sensible regulation of tobacco that has been long overdue.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

COMMENDING THOMAS O. SUGAR

Mr. BAYH. Mr. President, I rise today to honor Mr. Thomas O. Sugar, who has served as one of my most valued and trusted aides in the U.S. Senate and in the Indiana Governor's office. I am proud to have this opportunity to recognize Tom for the remarkable service he has rendered on behalf of the people of Indiana.

Tom is a native of Kokomo, IN, an auto town in the heart of our proud manufacturing State. Tom never forgot where he came from, and he has been a faithful and passionate emissary of the hard-working, middle-class Hoosiers who inspired him to enter public service in the first place.

Tom's career in government and politics began when he served as a campaign field organizer for Jim Jontz, who represented Indiana's fifth Congressional District. Throughout his 7 years of service for Congressman Jontz, Tom held a variety of positions, culminating in his ascension to chief of staff in 1991.

I was fortunate to have Tom join my staff as director of communication and planning during my second term as Indiana Governor. Among his many achievements, Tom orchestrated a successful conference on promoting responsible fatherhood that brought together leaders of the most successful fatherhood programs in the country. He also helped plan the Governor's adoption initiative, heralding needed reforms in Indiana's adoption system.

Tom served as my campaign manager for my first Senate race in 1998 and then took over as my chief of staff, a position he has held for over a decade. Tom has carried out this demanding role with unceasing skill, diplomacy, and determination. His portfolio has been considerable. Tom has been a top adviser on a range of significant policy issues, helping to improve our Nation's educational system, supporting working families, strengthening national security, and expanding volunteer opportunities for Americans to serve their country.

In addition to playing a crucial role on policy issues, Tom has served as a leader and a mentor to members of my staff in both my Indiana and Washington offices. Tom had a knack for discovering new talent, and he helped hone the professional development of countless public servants.

Most importantly, Tom is a devoted father to his sons, Jackson and Carter, and a loving husband to his wife Nancy. Tom cares about the people he works with and treats his colleagues like extended family. Tom was always ready with a kind word during times of plenty and an understanding ear during periods of personal difficulty and loss.

This week, Tom leaves my office to pursue a new opportunity helping lower income students finish their college and postsecondary education. The newly formed National Consortium for College Completion is extraordinarily lucky to have Tom as a part of their organization. While I will deeply miss having Tom on my Senate staff, I look forward to hearing about the work he will do on behalf of students in need across our country.

Tom is a trusted aide, a dear friend, and a true-blue Hoosier whose contributions to the State of Indiana are immeasurable.

Mr. President, I am pleased to recognize Tom's extraordinary contributions to this body, and I wish him the best of luck in his future pursuits.

ADDITIONAL STATEMENTS

REMEMBERING ERNEST P. KLINE

● Mr. CASEY. Madam President, the Commonwealth of Pennsylvania recently lost a distinguished former lieutenant governor and a life-long Pittsburgh sports fan, Ernest P. Kline. Ernie passed away of congestive heart failure after a life that tells the story of a Pennsylvanian with the determination to reach his goals, a love of public service, and a devoted father and grandfather. Today I honor his memory.

Ernest P. Kline was lieutenant governor of the Commonwealth of Pennsylvania from 1971 to 1979. During his 8 years of public service, he worked to advance the causes of women and older citizens. After his career in public service, Ernie was president of Kline Associates in Palmyra, PA. His story is a Pennsylvania story of hard work and deep abiding commitment to help people.

Ernie and his two brothers were raised by a single mother in Webster, just outside of Pittsburgh. It was the love and support of his extended Italian-American family, his teachers, and his devout Catholic faith that would shape him into the statesman he came to be. Ernie was the starting quarterback of his Rostraver high school football team. He attended Duquesne University but had to drop out early due to financial constraints. He became a radio-news broadcaster. While working with the radio station in Charleroi, he met his beloved wife Josephine. They would have celebrated their 60th wedding anniversary June 25th.

When covering a Beaver Falls city council meeting for WBVP-AM, Ernie realized that he wanted to enter public service. He went home, told his family, and was elected to the city council of Beaver Falls, PA, in 1955. Nine years later, Ernie was elected to the senate of Pennsylvania, later becoming the youngest Democratic floor leader ever. After 7 years in the State senate, he was elected lieutenant governor of the Commonwealth.

His life of public service continued after he left elected office through volunteering with different nonprofit organizations such as the Ronald McDonald House and the United Way. He continued supporting Democratic politics his entire life. Ernie also loved to fish and root for the Pittsburgh Steelers.

He and Josephine raised 7 children and they were blessed with 12 grandchildren. Ernie was a loving father and devoted grandfather who instilled in his family a love of Pennsylvania and the value of a life in public service. More importantly, he was a dad who made sure the kids did all of their homework and all of their chores.

Ernie Kline was a person of integrity and compassion. He never forgot where he came from and the values that guided his life. I extend my sincere condolences to Josephine and the Kline family for their loss. His life story will continue to inspire his family and many others to devote their lives to public service and to the poor and the powerless.●

JUDGE COLLEEN KOLLAR-KOTELLY

● Mrs. FEINSTEIN. Madam President, shortly before the recess, U.S. District Judge Colleen Kollar-Kotelly completed her service as presiding judge of the Foreign Intelligence Surveillance Court. By law, after serving for a maximum of 7 years, judges of the FISA Court, who are designated from the U.S. districts courts by the Chief Justice of the United States to serve on the FISA Court in addition to their regular judicial responsibilities, are not eligible for redesignation.

Now that Judge Kollar-Kotelly has completed her distinguished service on the FISA Court, it is fitting to take note of the admirable service she has rendered as the presiding judge of an institution that is central to our Nation's commitment to conduct foreign intelligence within the rule of law.

Judge Kollar-Kotelly was appointed in 1984 to serve as an associate judge of the Superior Court of the District of Columbia. In 1997, she was appointed by President Clinton to serve on the U.S. District Court for the District of Columbia. In 2002, Chief Justice William H. Rehnquist designated her to be presiding judge of the FISA Court. Her ability to earn the trust of two Presidents and a Chief Justice is noteworthy in itself.

The period of Judge Kollar-Kotelly's service as presiding judge, from 2002 to 2009, has been, of course, a period of enormous challenge for the FISA Court. The work of the court, apart from limited releases of statistical information and the rare case in which a redacted opinion has been released publicly, occurs in secrecy. But while little is publicly known about her service as presiding judge, from the vantage point of the Senate Intelligence Committee I can say with confidence that the American people should be very grateful for her leadership of this most important court.

Congratulations, Judge Kollar-Kotelly, and thanks for a job well done.●

CONGRATULATING THE GEORGE WASHINGTON HIGH SCHOOL CLASS OF 2009

● Mr. LUGAR. Madam President, I take the opportunity today to congratulate the class of 2009 at George Washington Community High School in Indianapolis, IN. This class has achieved the notable result of having all 89 spring and summer graduates accepted to college—a rare feat for any high school in America. Many of these students will be the first members of their families to attend college. Only about 5 percent of the adults in the surrounding community have attended college.

I am especially proud of what the students, teachers, and families of Washington High School are achieving because the school and community have played a big role in my early career and in the life of my family. My grandfather, Thomas L. Green, lived on the West Side of Indianapolis near Washington High School. Although he had only a fifth-grade education, he established Thomas L. Green and Company, a food machinery manufacturing firm, in a factory near the high school.

When I returned to Indianapolis in 1960 after my Navy service, I joined my brother, Thomas R. Lugar, in managing the food machinery business. Many of our employees and interns came from the neighborhood surrounding George Washington High School. Thanks to the leadership of Principal Cloyd Julian and others, we joined the George Washington Business club, through which we met frequently with the students and teachers.

In late 1963, a delegation from the West Side came to my office at the factory to encourage me to run for the Indianapolis Board of School Commissioners. They felt that schools on the West Side were being neglected, and they wanted to ensure that the perspective of our community was heard. I accepted their challenge and won a seat on the board in May of 1964. This responsibility deepened my involvement in the affairs of George Washington and other schools in our neighborhood.

I was elected mayor of Indianapolis in 1967 and continued to stay closely involved with the school. During this period, George Washington had developed a legendary basketball program that was followed closely on the West Side. The school won the Indiana High School Basketball State Championship in 1965 and 1969. We attended every tournament game and any pep rallies. It was wonderful to see the high school as a leader politically, academically, and athletically.

I take a moment to recount this cherished history because George Washington is a prime example of how a school can succeed through the hard work of its students and teachers, the support of the community, and the expectation of achievement. These students have dedicated themselves to setting an example for their younger siblings and the classes that will follow them at George Washington. The teachers never stop preaching about the advantages of going to college and never let the students assume that their education ends with high school. And parents have supported these students, even if the experience of college is a new one for their families.

The most fundamental element of American competitiveness and progress is the quality of education that our children receive. We must make sure that all of our young people are educated 100 percent of them. We cannot afford to be satisfied with less. George Washington High School clearly has embraced this challenge.

I am privileged to recognize this marvelous school and the students who are graduating and going to college, for this signal achievement. It is clear that the students at George Washington have the vision and inspiration to move ahead, which is so important to their lives but also to the success of our great country. I look forward to following their achievements and supporting their dreams in the years ahead.

Below is a complete list of the remarkable George Washington High School Class of 2009:

Edgardo Aboytes, Megan Adams, Armando Alejo, Mauricio Arreola, Salvador Arteaga, Jose Arteaga, Louis Aumann, Imelda Benitez-Vasquez, Sarah Boles, Devon Brogan, Dawn Caffery, Sebastiana Campos, Aloric Carson, Ariel Casillas, Katherine Cook, Erik Cook, Cheris Drotz-Smith, Joyce East, Luis Escatel, Petra Felder.

Edith Flores, Anthony Fuller, Manuel Gil, Dorthea Glenn, Noe Gonzalez, John Graves, Christopher Hall, Katey Hicks, Kaela Hunt, Kathryn Hunter, Tiffany Ingalls, Alma Jimenez, Dujuan Johnson, Cleveland Johnson, Charles Lile, James Locke, Adelmer Lopez, Rubi Lopez, Daniel Luckett, Karina Magallanes.

Jessica Martinez, Joshua Masters, Angela McClure, Ashley McClure, Patrick McDonald, Frederick McKnight, Keith McLemore, Adem Meftah, Shantina Moore, Fernando Mora, James Morris, Felicia Moy, Nohemi Ocampo, Rick Owens, Andrew Parsley, Julian Peters, Kiara Ragland, Miguel Ramirez, Tisha Ramirez, Daniel Rangel.

Matthew Reeves, Jeffery Riley, Tiffany Riley, Brittney Ritchie, Marcos Rivera, Marvin Rodriguez, Maria Rodriguez, Fernando Rojas, Marcus Ross, Emanuel Ruiz, Loniqua Smith, Erica Snyder, Gregorio Soto, Brittany Spears, Jason Stark-Jines, DeVaughn Stokes.

India Tinsley, Samantha Turner, Maria Valdez, Kenneth Valentine, Cassandra Vest, Sherry Whitescarver, Brandy Whitescarver, Victoria Wilcox, Calvin Williams, Rodshied Williams, William Wilson, Cassandra Wilson, Jose Zelaya.●

MESSAGES FROM THE PRESIDENT

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

EXECUTIVE MESSAGES REFERRED

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

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

MEASURES DISCHARGED

The following bill was discharged from the Committee on Banking, Housing, and Urban Affairs by unanimous consent, and referred as indicated:

S. 1007. A bill to amend the Internal Revenue Code of 1986 to deny a deduction for excessive compensation of any employee of an employer; to the Committee on Finance.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC–1740. A communication from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Etoxazole; Pesticide Tolerances'' (FRL-8413-5) received in the Office of the President of the Senate on May 27, 2009; to the Committee on Agriculture, Nutrition, and Forestry.

EC–1741. A communication from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Exemptions from the Requirement of a Tolerance; Technical Amendments'' (FRL-8417-9) received in the Office of the President of the Senate on May 27, 2009; to the Committee on Agriculture, Nutrition, and Forestry.

EC–1742. A communication from the Assistant Secretary, Office of Legislative Affairs, Department of State, transmitting, pursuant to law, a six-month periodic report relative to the national emergency that was declared in Executive Order 12938 with respect to the proliferation of weapons of mass destruction; to the Committee on Banking, Housing, and Urban Affairs.

EC–1743. A communication from the Chairman and President, Export-Import Bank of the United States, transmitting, pursuant to law, a report relative to transactions involving U.S. exports to the Republic of Korea; to the Committee on Banking, Housing, and Urban Affairs.

EC–1744. A communication from the Associate General Counsel for Legislation and Regulations, Office of the Assistant Secretary for Housing-Federal Housing Commissioner, Department of Housing and Urban Development, transmitting, pursuant to law, the report of a rule entitled ''Real Estate Settlement Procedures Act (RESPA): Rule To Simplify and Improve the Process of Obtaining Mortgages and Reduce Consumer Settlement Costs; Withdrawal of Revised Definition of 'Required Use''' ((RIN2502-AI61)(FR-5180-F-06)) received in the Office of the President of the Senate on May 26, 2009; to the Committee on Banking, Housing, and Urban Affairs.

EC–1745. A communication from the Chief of the Border Security Regulations Branch, Customs and Border Protection, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Establishing U.S. Ports of Entry in the Commonwealth of the Northern Mariana Islands (CNMI) and Implementing the Guam-CNMI Visa Waiver Program; Change of Implementation Date'' (RIN1651-AA77) received in the Office of the President of the Senate on May 22, 2009; to the Committee on Energy and Natural Resources.

EC–1746. A communication from the General Counsel, Federal Energy Regulatory Commission, transmitting, pursuant to law, the report of a rule entitled ''Western Electricity Coordinating Council Regional Reliability Standard Regarding Automatic Time Error Correction'' (Docket No. RM08-12-000) as received during adjournment of the Senate in the Office of the President of the Senate on May 16, 2009; to the Committee on Energy and Natural Resources.

EC–1747. A communication from the Director, Office of Human Resources, Environmental Protection Agency, transmitting, pursuant to law, (4) reports relative to vacancy announcements within the Agency; to the Committee on Environment and Public Works.

EC–1748. A communication from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Air Quality Implementation Plans; South Carolina; Approval of Section 110(a)(1) Maintenance Plan for the 1997 8-Hour Ozone Standard for Cherokee County'' (FRL-8911-5) received in the Office of the President of the Senate on May 27, 2009; to the Committee on Environment and Public Works.

EC–1749. A communication from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Update of Continuous Instrumental Test Methods; Correction'' (FRL-8910-5) received in the Office of the President of the Senate on May 27, 2009; to the Committee on Environment and Public Works.

EC–1750. A communication from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Implementation of the New Source Review Program for Particulate Matter Less Than w.5 Micrometers (PM2.5)'' (FRL-8910-6) received in the Office of the President of the Senate on May 27, 2009; to the Committee on Environment and Public Works.

EC–1751. A communication from the Chief, Branch of Listing, Fish and Wildlife Service, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled ''Endangered and Threatened Wildlife and Plants; Revised Designation of Critical Habitat for the Wintering Population of the Piping Plover (Charadrius melodus) in Texas'' (RIN1018-AV46) received in the Office of the President of the Senate on May 27, 2009; to the Committee on Environment and Public Works.

EC–1752. A communication from the Chief, Branch of Listing, Fish and Wildlife Service, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled ''Endangered and Threatened Wildlife and Plants; Designation of Critical Habitat for Peninsular Bighorn Sheep and Determination of a Distinct Population Segment of Desert Bighorn Sheep (Ovis canadensis nelsoni)'' (RIN1018-AV09) received in the Office of the President of the Senate on May 27, 2009; to the Committee on Environment and Public Works.

EC–1753. A communication from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Air Quality Implementation Plans; Florida; Removal of Gasoline Vapor Recovery from the Southeast Florida Area'' (FRL-8911-6) received in the Office of the President of the Senate on May 27, 2009; to the Committee on Environment and Public Works.

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. BINGAMAN (for himself and Mrs. LINCOLN):

S. 1161. A bill to amend the Public Health Service Act to authorize programs to increase the number of nurse faculty and to increase the domestic nursing and physical therapy workforce, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. SCHUMER:

S. 1162. A bill to require notification of the Federal Aviation Administration with respect to wildlife strikes, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. SCHUMER:

S. 1163. A bill to add 1 member with aviation safety expertise to the Federal Aviation Administration Management Advisory Council; to the Committee on Commerce, Science, and Transportation.

By Mr. FEINGOLD (for himself and Ms. COLLINS):

S. 1164. A bill to amend the Public Health Service Act to reauthorize the Automated Defibrillation in Adam's Memory Act; to the Committee on Health, Education, Labor, and Pensions.

By Mr. FEINGOLD (for himself and Ms. COLLINS):

S. 1165. A bill to promote the development of health care cooperatives that will help businesses to pool the health care purchasing power of employers, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

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

By Mr. FEINGOLD (for himself, Mr. BURR, Mr. BAYH, Ms. SNOWE, and Mr. MCCAIN):

S. Res. 164. A resolution amending Senate Resolution 400, 94th Congress, and Senate Resolution 445, 108th Congress, to improve congressional oversight of the intelligence activities of the United States, to provide a strong, stable, and capable congressional committee structure to provide the intelligence community appropriate oversight, support, and leadership, and to implement a key recommendation of the National Commission on Terrorist Attacks Upon the United States; to the Committee on Rules and Administration.

By Mr. LEVIN (for himself, Mr. MCCAIN, Mr. NELSON of Nebraska, and Mr. GRAHAM):

S. Res. 165. A resolution to encourage recognition of 2009 as the ''Year of the Military Family''; considered and agreed to.

By Mr. SCHUMER:

S. Res. 166. A resolution to authorize the printing of a collection of the rules of the committees of the Senate; considered and agreed to.

ADDITIONAL COSPONSORS

S. 148

At the request of Mr. KOHL, the name of the Senator from Oregon (Mr. WYDEN) was added as a cosponsor of S. 148, a bill to restore the rule that agreements between manufacturers and retailers, distributors, or wholesalers to set the minimum price below which the manufacturer's product or service cannot be sold violates the Sherman Act.

S. 348

At the request of Mr. ROCKEFELLER, the name of the Senator from Idaho (Mr. CRAPO) was added as a cosponsor of S. 348, a bill to amend section 254 of the Communications Act of 1934 to provide that funds received as universal service contributions and the universal service support programs established pursuant to that section are not subject to certain provisions of title 31, United States Code, commonly known as the Antideficiency Act.

S. 424

At the request of Mr. LEAHY, the name of the Senator from Washington (Ms. CANTWELL) was added as a cosponsor of S. 424, 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. 451

At the request of Ms. COLLINS, the names of the Senator from Nebraska (Mr. NELSON), the Senator from Alaska (Ms. MURKOWSKI), the Senator from Kansas (Mr. BROWNBACK), the Senator from Idaho (Mr. RISCH) and the Senator from Maine (Ms. SNOWE) were added as cosponsors of S. 451, a bill to require the Secretary of the Treasury to mint coins in commemoration of the centennial of the establishment of the Girl Scouts of the United States of America.

S. 456

At the request of Mr. DODD, the name of the Senator from Oregon (Mr. WYDEN) was added as a cosponsor of S.

456, a bill to direct the Secretary of Health and Human Services, in consultation with the Secretary of Education, to develop guidelines to be used on a voluntary basis to develop plans to manage the risk of food allergy and anaphylaxis in schools and early childhood education programs, to establish school-based food allergy management grants, and for other purposes.

S. 482

At the request of Mr. FEINGOLD, the name of the Senator from Maine (Ms. COLLINS) was added as a cosponsor of S. 482, a bill to require Senate candidates to file designations, statements, and reports in electronic form.

S. 570

At the request of Mr. VITTER, the name of the Senator from Texas (Mrs. HUTCHISON) was added as a cosponsor of S. 570, a bill to stimulate the economy and create jobs at no cost to the taxpayers, and without borrowing money from foreign governments for which our children and grandchildren will be responsible, and for other purposes.

S. 572

At the request of Mr. THUNE, his name was added as a cosponsor of S. 572, a bill to provide for the issuance of a ''forever stamp'' to honor the sacrifices of the brave men and women of the armed forces who have been awarded the Purple Heart.

S. 590

At the request of Ms. SNOWE, the name of the Senator from Texas (Mr. CORNYN) was added as a cosponsor of S. 590, a bill to assist local communities with closed and active military bases, and for other purposes.

S. 653

At the request of Mr. CARDIN, the name of the Senator from Montana (Mr. BAUCUS) was added as a cosponsor of S. 653, a bill to require the Secretary of the Treasury to mint coins in commemoration of the bicentennial of the writing of the Star-Spangled Banner, and for other purposes.

S. 711

At the request of Mr. BAUCUS, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 711, a bill to require mental health screenings for members of the Armed Forces who are deployed in connection with a contingency operation, and for other purposes.

S. 730

At the request of Mr. ENSIGN, the name of the Senator from Wyoming (Mr. ENZI) was added as a cosponsor of S. 730, a bill to amend the Harmonized Tariff Schedule of the United States to modify the tariffs on certain footwear, and for other purposes.

S. 779

At the request of Mr. LAUTENBERG, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. 779, a bill to amend titles 23 and 49, United States Code, to modify provisions relating to the length and weight limitations for vehicles operating on Federal-aid highways, and for other purposes.

S. 788

At the request of Ms. SNOWE, the name of the Senator from Wisconsin (Mr. FEINGOLD) was added as a cosponsor of S. 788, a bill to prohibit unsolicited mobile text message spam.

S. 823

At the request of Ms. SNOWE, the names of the Senator from Kansas (Mr. ROBERTS) and the Senator from New Jersey (Mr. MENENDEZ) were added as cosponsors of S. 823, a bill to amend the Internal Revenue Code of 1986 to allow a 5-year carryback of operating losses, and for other purposes.

S. 831

At the request of Mr. KERRY, the name of the Senator from Utah (Mr. BENNETT) was added as a cosponsor of S. 831, a bill to amend title 10, United States Code, to include service after September 11, 2001, as service qualifying for the determination of a reduced eligibility age for receipt of nonregular service retired pay.

S. 832

At the request of Mr. NELSON of Florida, the name of the Senator from Colorado (Mr. UDALL) was added as a cosponsor of S. 832, a bill to amend title 36, United States Code, to grant a Federal charter to the Military Officers Association of America, and for other purposes.

S. 833

At the request of Mr. SCHUMER, the name of the Senator from Connecticut (Mr. LIEBERMAN) was added as a cosponsor of S. 833, a bill to amend title XIX of the Social Security Act to permit States the option to provide Medicaid coverage for low-income individuals infected with HIV.

S. 846

At the request of Mr. DURBIN, the name of the Senator from Nebraska (Mr. NELSON) was added as a cosponsor of S. 846, a bill to award a congressional gold medal to Dr. Muhammad Yunus, in recognition of his contributions to the fight against global poverty.

S. 908

At the request of Mr. BAYH, the name of the Senator from Michigan (Mr. LEVIN) was added as a cosponsor of S. 908, a bill to amend the Iran Sanctions Act of 1996 to enhance United States diplomatic efforts with respect to Iran by expanding economic sanctions against Iran.

S. 924

At the request of Ms. MIKULSKI, the names of the Senator from Wisconsin (Mr. FEINGOLD) and the Senator from Hawaii (Mr. AKAKA) were added as cosponsors of S. 924, a bill to ensure efficient performance of agency functions.

S. 981

At the request of Mr. REID, the name of the Senator from Connecticut (Mr. LIEBERMAN) was added as a cosponsor of S. 981, a bill to support research and public awareness activities with respect to inflammatory bowel disease, and for other purposes.

S. 984

At the request of Mrs. BOXER, the name of the Senator from Montana (Mr. TESTER) was added as a cosponsor of S. 984, a bill to amend the Public Health Service Act to provide for arthritis research and public health, and for other purposes.

S. 987

At the request of Mr. DURBIN, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 987, a bill to protect girls in developing countries through the prevention of child marriage, and for other purposes.

S. 1012

At the request of Mr. ROCKEFELLER, the name of the Senator from Maryland (Mr. CARDIN) was added as a cosponsor of S. 1012, a bill to require the Secretary of the Treasury to mint coins in commemoration of the centennial of the establishment of Mother's Day.

S. 1013

At the request of Mr. BINGAMAN, the names of the Senator from Indiana (Mr. LUGAR) and the Senator from Michigan (Ms. STABENOW) were added as cosponsors of S. 1013, a bill to authorize the Secretary of Energy to carry out a program to demonstrate the commercial application of integrated systems for long-term geological storage of carbon dioxide, and for other purposes.

S. 1044

At the request of Mr. THUNE, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 1044, a bill to preserve the ability of the United States to project power globally.

S. 1048

At the request of Mr. HARKIN, the name of the Senator from New Mexico (Mr. UDALL) was added as a cosponsor of S. 1048, a bill to amend the Federal Food, Drug, and Cosmetic Act to extend the food labeling requirements of the Nutrition Labeling and Education Act of 1990 to enable customers to make informed choices about the nutritional content of standard menu items in large chain restaurants.

S. 1057

At the request of Mr. TESTER, the name of the Senator from Tennessee (Mr. CORKER) was added as a cosponsor of S. 1057, a bill to amend the Public Health Service Act to provide for the participation of physical therapists in the National Health Service Corps Loan Repayment Program, and for other purposes.

S. 1067

At the request of Mr. FEINGOLD, the name of the Senator from Ohio (Mr. BROWN) was added as a cosponsor of S. 1067, a bill to support stabilization and lasting peace in northern Uganda and areas affected by the Lord's Resistance Army through development of a regional strategy to support multilateral

efforts to successfully protect civilians and eliminate the threat posed by the Lord's Resistance Army and to authorize funds for humanitarian relief and reconstruction, reconciliation, and transitional justice, and for other purposes.

S. 1090

At the request of Mr. WYDEN, the name of the Senator from Maine (Ms. SNOWE) was added as a cosponsor of S. 1090, a bill to amend the Internal Revenue Code of 1986 to provide tax credit parity for electricity produced from renewable resources.

S. 1157

At the request of Mr. CONRAD, the name of the Senator from Oklahoma (Mr. INHOFE) was added as a cosponsor of S. 1157, a bill to amend title XVIII of the Social Security Act to protect and preserve access of Medicare beneficiaries in rural areas to health care providers under the Medicare program, and for other purposes.

S.J. RES. 15

At the request of Mr. VITTER, the name of the Senator from Indiana (Mr. BAYH) was added as a cosponsor of S.J. Res. 15, a joint resolution proposing an amendment to the Constitution of the United States authorizing the Congress to prohibit the physical desecration of the flag of the United States.

S. CON. RES. 14

At the request of Mrs. LINCOLN, the names of the Senator from Montana (Mr. TESTER) and the Senator from Missouri (Mr. BOND) were added as cosponsors of S. Con. Res. 14, a concurrent resolution supporting the Local Radio Freedom Act.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BINGAMAN (for himself and Mrs. LINCOLN):

S. 1161. A bill to amend the Public Health Service Act to authorize programs to increase the number of nurse faculty and to increase the domestic nursing and physical therapy workforce, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. BINGAMAN. Mr. President, I rise today with my colleague Senator LINCOLN to introduce the Nurse Faculty and Physical Therapist Education Act of 2009. This legislation will help to address the critical shortage of nurse faculty and physical therapists that is facing our Nation. The nationwide nursing shortage is growing rapidly, because the average age of the nursing workforce is near retirement and because the aging population has increased health care needs. The shortage is one that affects the entire Nation. A 2006 Health Resources and Services Administration, HRSA, report estimated that the national nursing shortage would more than triple, to more than one million nurses, by the year 2020. The report also predicts that all 50 States will experience nursing shortages by 2015. Quite simply, we need to educate more nurses, or we, as a Nation, will not have enough trained nurses to meet the needs of our aging society.

One of the biggest constraints to educating more nurses is a shortage of nursing faculty. Almost three-quarters of nursing programs surveyed by the American Association of Colleges of Nursing cited faculty shortages as a reason for turning away qualified applicants. Although applications to nursing programs have surged 59 percent over the past decade, the National League for Nursing estimates that 147,000 qualified applications were turned away in 2004. This represents a 27 percent decrease in admissions over the previous year, indicating the need to scale up capacity in nursing programs is more critical than ever.

I know that in my home State of New Mexico, nursing programs turned down almost half of qualified applicants, even though HRSA predicts that New Mexico will only be able to meet 64 percent of its demand for nurses by 2020. With a national nurse faculty workforce that averages 53.5 years of age, and an average nurse faculty retirement age of 62.5 years, we cannot and must not wait any longer to address nurse faculty shortages.

Nursing faculty are not the only segment of the population that is aging. As the baby boom generation ages, there will be an increased need for nurses to care for the elderly. However, less than one percent of practicing nurses have a certification in geriatrics.

The Nurse Faculty and Physical Therapist Education Act will amend the Public Health Service Act, to help alleviate the faculty shortage by providing funds to help nursing schools increase enrollment and graduation from nursing doctoral programs. The act will increase partnering opportunities between academic institutions and medical practices, enhance cooperative education, support marketing outreach, and strengthen mentoring programs. The bill will increase the number of nurses who complete nursing doctoral programs and seek employment as faculty members and nursing leaders in academic institutions. In addition, the bill authorizes awards to train nursing faculty in clinical geriatrics, so that more nursing students will be equipped for our aging population.

By addressing the faculty shortage, we are addressing the nursing shortage.

The aging population will also require additional health workers in other fields. Physical therapy was listed as one of the fastest growing occupations by the U.S. Department of Labor, with a projected job growth of greater than 36 percent between 2004 and 2014. The need for physical therapists is particularly acute in rural and urban underserved areas, which have three to four times fewer physical therapists per capita than suburban areas. To address this need, the bill also authorizes a distance education pilot program to improve access to educational opportunity for both nursing and physical therapy students. Finally, the bill calls for a study by the Institute of Medicine at the National Academy of Sciences which will recommend how to balance education, labor, and immigration policies to meet the demand for qualified nurses and physical therapists.

The provisions of the Nurse Faculty and Physical Therapist Education Act are vital to overcoming workforce challenges. By addressing nurse faculty and physical therapist shortages, we will enhance both access to care and the quality of care.

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. 1161

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; FINDINGS.

(a) SHORT TITLE.—This Act may be cited as the ''Nurse Faculty and Physical Therapist Education Act of 2009''.

(b) FINDINGS.—Congress makes the following findings:

(1) The Nurse Reinvestment Act (Public Law 107–205) has helped to support students preparing to be nurse educators. Yet, nursing schools nationwide are forced to deny admission to individuals seeking to become nurses and nurse educators due to the lack of qualified nurse faculty.

(2) The American Association of Colleges of Nursing reported that 42,866 qualified applicants were denied admission to nursing baccalaureate and graduate programs in 2006, with faculty shortages identified as a major reason for turning away students.

(3) Seventy-one percent of schools have reported insufficient faculty as the primary reason for not accepting qualified applicants. The primary reasons for lack of faculty are lack of funds to hire new faculty, inability to identify, recruit and hire faculty in the competitive job market as of May 2007, and lack of nursing faculty available in different geographic areas.

(4) Despite the fact that in 2006, 52.4 percent of graduates of doctoral nursing programs enter education roles, the 103 doctoral programs nationwide produced only 437 graduates, which is only an additional 6 graduates from 2005. This annual graduation rate is insufficient to meet the needs for nurse faculty. In keeping with other professional academic disciplines, nurse faculty at colleges and universities are typically doctorally prepared.

(5) The nursing faculty workforce is aging and will be retiring.

(6) With the average retirement age of nurse faculty at 62.5 years of age, and the average age of doctorally prepared faculty, as of May 2007, that hold the rank of professor, associate professor, and assistant professor is 58.6, 55.8, and 51.6 years, respectively, the health care system faces unprecedented workforce and health access challenges with current and future shortages of deans, nurse educators, and nurses.

(7) Research by the National League of Nursing indicates that by 2019 approximately 75 percent of the nursing faculty population (as of May 2007) is expected to retire.

(8) A wave of nurses will be retiring from the profession in the near future. As of May 2007, the average age of a nurse in the United States is 46.8 years old. The Bureau of Labor Statistics estimates that more than 1,200,000 new and replacement registered nurses will be needed by 2014.

(9) By 2030, the number of adults age 65 and older is expected to double to 70,000,000, accounting for 20 percent of the population. As the population ages, the demand for nurses and nursing faculty will increase.

(10) Despite the need for nurses to treat an aging population, few registered nurses in the United States are trained in geriatrics. Less than 1 percent of practicing nurses have a certification in geriatrics and 3 percent of advanced practice nurses specialize in geriatrics.

(11) Specialized training in geriatrics is needed to treat older adults with multiple health conditions and improve health outcomes. Approximately 80 percent of Medicare beneficiaries have 1 chronic condition, more than 60 percent have 2 or more chronic conditions, and at least 10 percent have coexisting Alzheimer's disease or other dementias that complicate their care and worsen health outcomes. Two-thirds of Medicare spending is attributed to 20 percent of beneficiaries who have 5 or more chronic conditions. Research indicates that older persons receiving care from nurses trained in geriatrics are less frequently readmitted to hospitals or transferred from nursing facilities to hospitals than those who did not receive care from a nurse trained in geriatrics.

(12) The Department of Labor projected that the need for physical therapists would increase by 36.7 percent between 2004 and 2014.

(13) The need for physical therapists is particularly acute rural and urban underserved areas, which have 3 to 4 times fewer physical therapists per capita than suburban areas.

TITLE I—GRANTS FOR NURSING EDUCATION

SEC. 101. NURSE FACULTY EDUCATION.

Part D of title VIII of the Public Health Service Act (42 U.S.C. 296p et seq.) is amended by adding at the end the following:

"SEC. 832. NURSE FACULTY EDUCATION.

''(a) ESTABLISHMENT.—The Secretary, acting through the Health Resources and Services Administration, shall establish a Nurse Faculty Education Program to ensure an adequate supply of nurse faculty through the awarding of grants to eligible entities to—

''(1) provide support for the hiring of new faculty, the retaining of existing faculty, and the purchase of educational resources;

''(2) provide for increasing enrollment and graduation rates for students from doctoral programs; and

''(3) assist graduates from the entity in serving as nurse faculty in schools of nursing;

''(b) ELIGIBILITY.—To be eligible to receive a grant under subsection (a), an entity shall—

''(1) be an accredited school of nursing that offers a doctoral degree in nursing in a State or territory;

''(2) submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require;

''(3) develop and implement a plan in accordance with subsection (c);

''(4) agree to submit an annual report to the Secretary that includes updated information on the doctoral program involved, including information with respect to—

''(A) student enrollment;

''(B) student retention;

''(C) graduation rates;

''(D) the number of graduates employed part-time or full-time in a nursing faculty position; and

''(E) retention in nursing faculty positions within 1 year and 2 years of employment;

''(5) agree to permit the Secretary to make on-site inspections, and to comply with the requests of the Secretary for information, to determine the extent to which the school is complying with the requirements of this section; and

''(6) meet such other requirements as determined appropriate by the Secretary.

''(c) USE OF FUNDS.—Not later than 1 year after the receipt of a grant under this section, an entity shall develop and implement a plan for using amounts received under this grant in a manner that establishes not less than 2 of the following:

''(1) Partnering opportunities with practice and academic institutions to facilitate doctoral education and research experiences that are mutually beneficial.

''(2) Partnering opportunities with educational institutions to facilitate the hiring of graduates from the entity into nurse faculty, prior to, and upon completion of the program.

''(3) Partnering opportunities with nursing schools to place students into internship programs which provide hands-on opportunity to learn about the nurse faculty role.

''(4) Cooperative education programs among schools of nursing to share use of technological resources and distance learning technologies that serve rural students and underserved areas.

''(5) Opportunities for minority and diverse student populations (including aging nurses in clinical roles) interested in pursuing doctoral education.

''(6) Pre-entry preparation opportunities including programs that assist returning students in standardized test preparation, use of information technology, and the statistical tools necessary for program enrollment.

''(7) A nurse faculty mentoring program.

''(8) A Registered Nurse baccalaureate to Ph.D. program to expedite the completion of a doctoral degree and entry to nurse faculty role.

''(9) Career path opportunities for 2nd degree students to become nurse faculty.

''(10) Marketing outreach activities to attract students committed to becoming nurse faculty.

''(d) PRIORITY.—In awarding grants under this section, the Secretary shall give priority to entities from States and territories that have a lower number of employed nurses per 100,000 population.

''(e) NUMBER AND AMOUNT OF GRANTS.—Grants under this section shall be awarded as follows:

''(1) In fiscal year 2010, the Secretary shall award 10 grants of $100,000 each.

''(2) In fiscal year 2011, the Secretary shall award an additional 10 grants of $100,000 each and provide continued funding for the existing grantees under paragraph (1) in the amount of $100,000 each.

''(3) In fiscal year 2012, the Secretary shall award an additional 10 grants of $100,000 each and provide continued funding for the existing grantees under paragraphs (1) and (2) in the amount of $100,000 each.

''(4) In fiscal year 2013, the Secretary shall provide continued funding for each of the existing grantees under paragraphs (1) through (3) in the amount of $100,000 each.

''(5) In fiscal year 2014, the Secretary shall provide continued funding for each of the existing grantees under paragraphs (1) through (3) in the amount of $100,000 each.

''(f) LIMITATIONS.—

''(1) PAYMENT.—Payments to an entity under a grant under this section shall be for a period of not to exceed 5 years.

''(2) IMPROPER USE OF FUNDS.—An entity that fails to use amounts received under a grant under this section as provided for in subsection (c) shall, at the discretion of the Secretary, be required to remit to the Federal Government not less than 80 percent of the amounts received under the grant.

''(g) REPORTS.—

''(1) EVALUATION.—The Secretary shall conduct an evaluation of the results of the activities carried out under grants under this section.

''(2) REPORTS.—Not later than 3 years after the date of the enactment of this section, the Secretary shall submit to Congress an interim report on the results of the evaluation conducted under paragraph (1). Not later than 6 months after the end of the program under this section, the Secretary shall submit to Congress a final report on the results of such evaluation.

''(h) STUDY.—

''(1) IN GENERAL.—Not later than 3 years after the date of the enactment of this section, the Comptroller General of the United States shall conduct a study and submit a report to Congress concerning activities to increase participation in the nurse educator program under the section.

''(2) CONTENTS.—The report under paragraph (1) shall include the following:

''(A) An examination of the capacity of nursing schools to meet workforce needs on a nationwide basis.

''(B) An analysis and discussion of sustainability options for continuing programs beyond the initial funding period.

''(C) An examination and understanding of the doctoral degree programs that are successful in placing graduates as faculty in schools of nursing.

''(D) An analysis of program design under this section and the impact of such design on nurse faculty retention and workforce shortages.

''(E) An analysis of compensation disparities between nursing clinical practitioners and nurse faculty and between higher education nurse faculty and higher education faculty overall.

''(F) Recommendations to enhance faculty retention and the nursing workforce.

''(i) AUTHORIZATION OF APPROPRIATIONS.—

''(1) IN GENERAL.—For the costs of carrying out this section (except the costs described in paragraph (2), there are authorized to be appropriated $1,000,000 for fiscal year 2010, $2,000,000 for fiscal year 2011, and $3,000,000 for each of fiscal years 2012 through 2014.

''(2) ADMINISTRATIVE COSTS.—For the costs of administering this section, including the costs of evaluating the results of grants and submitting reports to the Congress, there are authorized to be appropriated such sums as may be necessary for each of fiscal years 2010 through 2014.''.

SEC. 102. GERIATRIC ACADEMIC CAREER AWARDS FOR NURSES.

Part I of title VIII of the Public Health Service Act (42 U.S.C. 298 et seq.) is amended by adding at the end the following:

"SEC. 856. GERIATRIC FACULTY FELLOWSHIPS.

''(a) ESTABLISHMENT OF PROGRAM.—The Secretary shall establish a program to provide Geriatric Academic Career Awards to eligible individuals to promote the career development of such individuals as geriatric nurse faculty.

''(b) ELIGIBLE INDIVIDUALS.—To be eligible to receive an Award under subsection (a), an individual shall—

''(1) be a registered nurse with a doctorate degree in nursing;

''(2)(A) have completed an approved advanced education nursing program in geriatric nursing or geropsychiatric nursing; or

''(B) have a State or professional nursing certification in geriatric nursing or geropsychiatric nursing; and

''(3) have a faculty appointment at an accredited school of nursing, school of public health, or school of medicine.

''(c) APPLICATION.—An eligible individual desiring to receive an Award under this section shall submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require, which shall include an assurance that the individual will meet the service requirement described in subsection (d).

''(d) SERVICE REQUIREMENT.—An individual who receives an Award under this section shall provide training in clinical geriatrics, including the training of interdisciplinary teams of health care professionals. The provision of such training shall constitute at least 50 percent of the obligations of such individual under the Award.

''(e) AMOUNT AND NUMBER.—

''(1) AMOUNT.—The amount of an Award under this section shall equal $75,000 annually, adjusted for inflation on the basis of the Consumer Price Index. The Secretary may increase the amount of an Award by not more than 25 percent, taking into account the fringe benefits and other research expenses, at the recipient's institutional rate.

''(2) NUMBER.—The Secretary shall award up to 125 Awards under this section from 2008 through 2016.

''(3) REGIONAL DISTRIBUTION.—

''(A) IN GENERAL.—The Secretary shall provide Awards to individuals from 5 regions in the United States, of which—

''(i) 2 regions shall be an urban area;

''(ii) 2 regions shall be a rural area; and

''(iii) 1 region shall include a State with—

''(I) a medical school that has a department of geriatrics that manages rural outreach sites and is capable of managing patients with multiple chronic conditions, 1 of which is dementia; and

''(II) a college of nursing that has a required course in geriatric nursing in the baccalaureate program.

''(B) GEOGRAPHIC DIVERSITY.—The Secretary shall ensure that the 5 regions established under subparagraph (A) are located in different geographic areas of the United States.

''(f) TERM OF AWARD.—The term of an Award made under this section shall be 5 years.

''(g) REPORTS.—

''(1) EVALUATION.—

''(A) IN GENERAL.—The Secretary shall conduct an evaluation of the results of the activities carried out under the Awards established under this section.

''(B) REPORTS TO CONGRESS.—Not later than 3 years after the date of the enactment of this section, the Secretary shall submit to Congress an interim report on the results of the evaluation conducted under this paragraph. Not later than 180 days after the expiration of the program under this section, the Secretary shall submit to Congress a final report on the results of such evaluation.

''(2) CONTENT.—The evaluation under paragraph (1) shall examine—

''(A) the program design under this section and the impact of the design on nurse faculty retention; and

''(B) options for continuing the program beyond fiscal year 2018.

''(h) AUTHORIZATION OF APPROPRIATIONS.—

''(1) IN GENERAL.—To fund Awards under subsection (e), there are authorized to be appropriated $1,875,000 for each of fiscal years 2010 through 2018.

''(2) ADMINISTRATIVE COSTS.—To carry out this section (except to fund Awards under subsection (e)), there are authorized to be appropriated such sums as may be necessary for each of fiscal years 2008 through 2016.

''(3) SEPARATION OF FUNDS.—The Secretary shall ensure that the amounts appropriated pursuant to paragraph (1) are held in a separate account from the amounts appropriated pursuant to paragraph (2).''.

TITLE II—DISTANCE EDUCATION PILOT PROGRAM AND OTHER PROVISIONS TO INCREASE THE NURSING AND PHYSICAL THERAPY WORKFORCE

SEC. 201. INCREASING THE DOMESTIC SUPPLY OF NURSES AND PHYSICAL THERAPISTS.

(a) ESTABLISHMENT OF NURSE AND PHYSICAL THERAPISTS DISTANCE EDUCATION PILOT PROGRAM.—

(1) IN GENERAL.—The Secretary of Health and Human Services (referred to in this section as the ''Secretary''), in conjunction with the Secretary of Education, shall establish a Nurse and Physical Therapist Distance Education Pilot Program through which grants may be awarded for the conduct of activities to increase accessibility to nursing and physical therapy education.

(2) PURPOSE.—The purpose of the Nurse and Physical Therapist Distance Education Pilot Program established under paragraph (1) shall be to increase accessibility to nursing and physical therapy education to—

(A) provide assistance to individuals in rural areas who want to study nursing or physical therapy to enable such individuals to receive appropriate nursing education and physical therapy education;

(B) promote the study of nursing and physical therapy at all educational levels;

(C) establish additional slots for nursing and physical therapy students at existing accredited schools of nursing and physical therapy education programs; and

(D) establish new nursing and physical therapy education programs at institutions of higher education.

(3) APPLICATION.—To be eligible to receive a grant under the Pilot Program under paragraph (1), an entity shall submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require.

(4) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated such sums as may be necessary to carry out this subsection.

(b) INCREASING THE DOMESTIC SUPPLY OF NURSES AND PHYSICAL THERAPISTS.—

(1) IN GENERAL.—Not later than January 1, 2010, the Secretary, in conjunction with the Secretary of Education, shall—

(A) submit to Congress a report concerning the country of origin or professional school of origin of newly licensed nurses and physical therapists in each State, that shall include—

(i) for the most recent 3-year period for which data is available—

(I) separate data relating to teachers at institutions of higher education for each related occupation who have been teaching for not more than 5 years; and

(II) separate data relating to all teachers at institutions of higher education for each related occupation regardless of length of service;

(ii) for the most recent 3-year period for which data is available, separate data for each related occupation and for each State;

(iii) a separate identification of those individuals receiving their initial professional license and those individuals licensed by endorsement from another State;

(iv) with respect to those individuals receiving their initial professional license in each year, a description of the number of individuals who received their professional education in the United States and the number of individuals who received such education outside the United States; and

(v) to the extent practicable, a description, by State of residence and country of education, of the number of nurses and physical therapists who were educated in any of the 5 countries (other than the United States) from which the most nurses and physical therapists arrived;

(B) in consultation with the Department of Labor, enter into a contract with the Institute of Medicine of the National Academy of Sciences for the conduct of a study and submission of a report that includes—

(i) a description of how the United States can balance health, education, labor, and immigration policies to meet the respective policy goals and ensure an adequate and well-trained nursing and physical therapy workforce;

(ii) a description of the barriers to increasing the supply of nursing and physical therapy faculty, domestically trained nurses, and domestically trained physical therapists;

(iii) recommendations of strategies to be utilized by Federal and State governments that would be effective in removing the barriers described in clause (ii), including strategies that address barriers to advancement to become registered nurses for other health care workers, such as home health aides and nurses assistants;

(iv) recommendations for amendments to Federal laws that would increase the supply of nursing faculty, domestically trained nurses, and domestically trained physical therapists;

(v) recommendations for Federal grants, loans, and other incentives that would provide increases in nurse and physical therapist educators and training facilities, and other measures to increase the domestic education of new nurses and physical therapists;

(vi) an identification of the effects of nurse and physical therapist emigration on the health care systems in their countries of origin; and

(vii) recommendations for amendments to Federal law that would minimize the effects of health care shortages in the countries of origin from which immigrant nurses arrived; and

(C) collaborate with the heads of other Federal agencies, as appropriate, in working with ministers of health or other appropriate officials of the 5 countries from which the most nurses and physical therapists arrived into the United States, to—

(i) address health worker shortages caused by emigration; and

(ii) ensure that there is sufficient human resource planning or other technical assistance needed to reduce further health worker shortages in such countries.

(2) ACCESS TO DATA.—The Secretary shall grant the Institute of Medicine access to the data described under paragraph (1)(A), as such data becomes available to the Secretary for use by the Institute in carrying out the activities under paragraph (1)(B).

(3) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated $1,400,000 to carry out paragraph (1)(B).

By Mr. FEINGOLD (for himself and Ms. COLLINS):

S. 1164. A bill to amend the Public Health Service Act to reauthorize the Automated Defibrillation in Adam's Memory Act; to the Committee on Health, Education, Labor, and Pensions.

Mr. FEINGOLD. Mr. President, today I am introducing the reauthorization of

the Automated Defibrillators in Adam's Memory Act, or the ADAM Act. This bill is modeled after the successful Project ADAM that originally began in Wisconsin, and will reauthorize a program to establish a national clearing house to provide schools with the ''how-to'' and technical advice to set up a public access defibrillation program.

Every 2 minutes, someone in America falls into sudden cardiac arrest. By improving access to AEDs, we can improve the survival rates of cardiac arrest in our communities.

In my home State of Wisconsin, as in many other states, heart disease is the number one killer. Nationwide, heart disease is the cause of one out of every 2.8 deaths. Overall, heart disease kills more Americans than breast cancer, lung cancer, and HIV/AIDS combined.

Cardiac arrest can strike anyone. Cardiac victims are in a race against time, and unfortunately, for too many of those in rural areas, Emergency Medical Services are unable to reach people in need, and time runs out for victims of cardiac arrest. It's simply not possible to have EMS units next to every farm and small town across the nation.

Fortunately, recent technological advances have made the newest generation of AEDs inexpensive and simple to operate. Because of these advancements in AED technology, it is now practical to train and equip police officers, teachers, and members of other community organizations.

Over 163,000 Americans experience out-of-hospital sudden cardiac arrests each year. Immediate CPR and early defibrillation using an automated external defibrillator, AED, can more than double a victim's chance of survival. By taking some relatively simple steps, we can give victims of cardiac arrest a better chance of survival.

Over the past 9 years, I have worked with Senator SUSAN COLLINS, a Republican from Maine, on a number of initiatives to empower communities to improve cardiac arrest survival rates. We have pushed Congress to support rural first responders—local police and fire and rescue services—in their efforts to provide early defibrillation. Congress heard our call, and responded by enacting two of our bills, the Rural Access to Emergency Devices Act and the ADAM Act.

The Rural Access to Emergency Devices program allows community partnerships across the country to receive a grant enabling them to purchase defibrillators, and receive the training needed to use these devices. This program is entering its ninth year of helping rural communities purchase defibrillators and train first responders, and I am pleased to say that grants have already put defibrillators in rural communities all over the country, helping those communities be better prepared when cardiac arrest strikes.

Approximately ninety-five percent of sudden cardiac arrest victims die before reaching the hospital. Every minute that passes before a cardiac arrest victim is defibrillated, the chance of survival falls by as much as 10 percent. After only eight minutes, the victim's survival rate drops by 60 percent. This is why early intervention is essential—a combination of CPR and use of AEDs can save lives.

Heart disease is not only a problem among adults. A few years ago I learned the story of Adam Lemel, a 17-year-old high school student and a star basketball and tennis player in Wisconsin. Tragically, during a timeout while playing basketball at a neighboring Milwaukee high school, Adam suffered sudden cardiac arrest, and died before the paramedics arrived.

This story is incredibly tragic. Adam had his whole life ahead of him, and could quite possibly have been saved with appropriate early intervention. In fact, we have seen a number of examples in Wisconsin where early CPR and access to defibrillation have saved lives.

Seventy miles away from Milwaukee, a 14-year-old boy collapsed while playing basketball. Within three minutes, the emergency team arrived and began CPR. Within five minutes of his collapse, the paramedics used an AED to jump start his heart. Not only has this young man survived, doctors have identified his father and brother as having the same heart condition and have begun preventative treatments.

These stories help to underscore some important issues. First, although cardiac arrest is most common among adults, it can occur at any age—even in apparently healthy children and adolescents. Second, early intervention is essential—a combination of CPR and the use of AEDs can save lives. Third, some individuals who are at risk for sudden cardiac arrest can be identified.

After Adam Lemel suffered his cardiac arrest, his friend David Ellis joined forces with Children's Hospital of Wisconsin to initiate Project ADAM to bring CPR training and public access defibrillation into schools, educate communities about preventing sudden cardiac deaths and save lives.

Today, Project ADAM has introduced AEDs into several Wisconsin schools, and has been a model for programs in Washington, Florida, Michigan and elsewhere. Project ADAM provides a model for the nation, and now, with the enactment of this new law, more schools will have access to the information they seek to launch similar programs.

The ADAM Act was passed into law in 2003, but has yet to be funded. I have been very proud to play a part in having this bill signed into law, and it is my hope that the reauthorization of the Act will quickly pass through the Congress and into law, and that funding will follow. It would not take much money to fund this program and save lives across the country.

The ADAM Act is one way we can honor the life of children like Adam Lemel, and give tomorrow's pediatric cardiac arrest victims a fighting chance at life.

This act exists because a family experienced the tragic loss of their son, but they were determined to spare other families that same loss. I thank Adam's parents, Joe and Patty, for their courageous efforts and I thank them for everything they have done to help the ADAM Act become law. Their actions take incredible bravery, and I commend them for their efforts.

By making sure that AEDs are available in our nation's rural areas, schools and throughout our communities we can help those in a race against time have a fighting chance of survival when they fall victim to cardiac arrest. I urge Congress to pass this reauthorization, and to fund the ADAM Act and the Rural AED program at their full levels. We have the power to prevent death—all we must do is act.

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. 1164

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 ''Automated Defibrillation in Adam's Memory Reauthorization Act''.

SEC. 2. AMENDMENT TO PUBLIC HEALTH SERVICE ACT.

Section 312 of the Public Health Service Act (42 U.S.C. 244) is amended—

(1) in subsection (c)(6), after ''clearinghouse'' insert '', that shall be administered by an organization that has substantial expertise in pediatric education, pediatric medicine, and electrophysiology and sudden death,''; and

(2) in the first sentence of subsection (e), by striking ''fiscal year 2003'' and all that follows through ''2006'' and inserting ''for each of fiscal years 2003 through 2014''.

By Mr. FEINGOLD (for himself and Ms. COLLINS):

S. 1165. A bill to promote the development of health care cooperatives that will help businesses to pool the health care purchasing power of employers, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. FEINGOLD. Mr. President, today, along with my colleague Senator COLLINS from Maine, I am reintroducing legislation to help businesses form group-purchasing cooperatives to obtain enhanced benefits, to reduce health care rates, and to improve quality for their employees' health care.

High health care costs are burdening businesses and employees across the nation. These costs are digging into profits and preventing access to affordable health care. Too many patients feel trapped by the system, with decisions about their health dictated by costs rather than by what they need.

Nationally, the annual average cost to an employer for an individual employee's health care is $3,983. For a

family, the employer contribution is $9,325. We must curb these rapidly increasing health care costs. I strongly support initiatives to ensure that everyone has access to health care. It is crucial that we support successful local initiatives to reduce health care premiums and to improve the quality of employees' health care.

By using group purchasing to obtain rate discounts, some employers have been able to reduce the cost of health care premiums for their employees. According to the National Business Coalition on Health, there are nearly 60 employer-led coalitions across the U.S. that collectively purchase health care. Through these pools, businesses are able to proactively challenge high costs and inefficient delivery of health care and share information on quality. These coalitions represent over 7,000 employers nationwide.

Improving the quality of health care will also lower the cost of care. By investing in the delivery of high-quality health care, we will be able to lower long term health care costs. Effective care, such as high-quality preventive services, can reduce overall health care expenditures. Health purchasing coalitions help promote these services and act as an employer forum for networking and education on health care cost containment strategies. They can help foster a dialogue with health care providers, insurers, and local HMOs.

Health care markets are local. Problems with cost, quality, and access to health care are felt most intensely in the local markets. Health care coalitions can function best when they are formed and implemented locally. Local employers of large and small businesses have formed health care coalitions to track health care trends, create a demand for quality and safety, and encourage group purchasing.

In Wisconsin, there have been various successful initiatives that have formed health care purchasing cooperatives to improve quality of care and to reduce cost. For example, the Employer Health Care Alliance Cooperative, an employer-owned and employer-directed not-for-profit cooperative, has developed a network of health care providers in Dane County and 13 surrounding counties on behalf of more than 160 member employers. Through this pooling effort, employers are able to obtain affordable, high-quality health care for their more than 80,000 employees and dependents.

This legislation seeks to build on successful local initiatives, such as the Alliance, that help businesses to join together to increase access to affordable and high-quality health care.

The Promoting Health Care Purchasing Cooperatives Act would authorize grants to groups of businesses so that they could form group-purchasing cooperatives to obtain enhanced benefits, reduce health care rates, and improve quality.

This legislation offers two separate grant programs to help different types of businesses pool their resources and bargaining power. Both programs would aid businesses to form cooperatives. The first program would help large businesses that sponsor their own health plans, while the second program would help small businesses that purchase their health insurance.

My bill would enable larger businesses to form cost-effective cooperatives that could offer high-quality health care through several ways. First, they could obtain health services through pooled purchasing from physicians, hospitals, home health agencies, and others. By pooling their experience and interests, employers involved in a coalition could better address essential issues, such as rising health insurance rates and the lack of comparable health care quality data. They would be able to share information regarding the quality of these services and to partner with these health care providers to meet the needs of their employees.

For smaller businesses that purchase their health insurance, the formation of cooperatives would allow them to buy health insurance at lower prices through pooled purchasing. Also, the communication within these cooperatives would provide employees of small businesses with better information about the health care options that are available to them. Finally, coalitions would serve to promote quality improvements by facilitating partnerships between their group and the health care providers.

By working together, the group could develop better insurance plans and negotiate better rates.

This legislation also tries to alleviate the burden that our Nation's farmers face when trying to purchase health care for themselves, their families, and their employees. Because the health insurance industry looks upon farming as a high-risk profession, many farmers are priced out of, or simply not offered, health insurance. By helping farmers join cooperatives to purchase health insurance, we will help increase their health insurance options.

Past health purchasing pool initiatives have focused only on cost and have tried to be all things for all people. My legislation creates an incentive to join the pools by giving grants to a group of similar businesses to form group-purchasing cooperatives. The pools are also given flexibility to find innovative ways to lower costs, such as enhancing benefits—for example, more preventive care—and improving quality. Finally, the cooperative structure is a proven model, which creates an incentive for businesses to remain in the pool because they will be invested in the organization.

We must reform health care in America and give employers and employees more options. This legislation, by providing for the formation of cost-effective coalitions that will also improve the quality of care, contributes to this essential reform process. I urge my colleagues to join me in supporting this proposal to improve the quality and costs of health care.

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. 1165

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 ''Promoting Health Care Purchasing Cooperatives Act''.

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress makes the following findings:

(1) Health care spending in the United States has reached 16.2 percent of the Gross Domestic Product of the United States, yet over 46,000,000 people remain uninsured.

(2) After nearly a decade of manageable increases in commercial insurance premiums, many employers are now faced with consecutive years of double digit premium increases.

(3) Purchasing cooperatives owned by participating businesses are a proven method of achieving the bargaining power necessary to manage the cost and quality of employer-sponsored health plans and other employee benefits.

(4) The Employer Health Care Alliance Cooperative has provided its members with health care purchasing power through provider contracting, data collection, activities to enhance quality improvements in the health care community, and activities to promote employee health care consumerism.

(5) According to the National Business Coalition on Health, there are nearly 60 employer-led coalitions across the United States that collectively purchase health care, proactively challenge high costs and the inefficient delivery of health care, and share information on quality. These coalitions represent more than 7,000 employers, and approximately 25,000,000 employees and their dependents.

(b) PURPOSE.—It is the purpose of this Act to build off of successful local employer-led health insurance initiatives by improving the value of their employees' health care.

SEC. 3. GRANTS TO SELF INSURED BUSINESSES TO FORM HEALTH CARE COOPERATIVES.

(a) AUTHORIZATION.—The Secretary of Health and Human Services (in this Act referred to as the ''Secretary''), acting through the Director of the Agency for Healthcare Research and Quality, is authorized to award grants to eligible groups that meet the criteria described in subsection (d), for the development of health care purchasing cooperatives. Such grants may be used to provide support for the professional staff of such cooperatives, and to obtain contracted services for planning, development, and implementation activities for establishing such health care purchasing cooperatives.

(b) ELIGIBLE GROUP DEFINED.—

(1) IN GENERAL.—In this section, the term ''eligible group'' means a consortium of 2 or more self-insured employers, including agricultural producers, each of which are responsible for their own health insurance risk pool with respect to their employees.

(2) NO TRANSFER OF RISK.—Individual employers who are members of an eligible group may not transfer insurance risk to such group.

(c) APPLICATION.—To be eligible to receive a grant under this section, an eligible group shall submit to the Secretary an application

at such time, in such manner, and accompanied by such information as the Secretary may require.

(d) CRITERIA.—

(1) FEASIBILITY STUDY GRANTS.—

(A) IN GENERAL.—An eligible group may submit an application under subsection (c) for a grant to conduct a feasibility study concerning the establishment of a health insurance purchasing cooperative. The Secretary shall approve applications submitted under the preceding sentence if the study will consider the criteria described in paragraph (2).

(B) REPORT.—After the completion of a feasibility study under a grant under this section, an eligible group shall submit to the Secretary a report describing the results of such study.

(2) GRANT CRITERIA.—The criteria described in this paragraph include the following with respect to the eligible group involved:

(A) The ability of the group to effectively pool the health care purchasing power of employers.

(B) The ability of the group to provide data to employers to enable such employers to make data-based decisions regarding their health plans.

(C) The ability of the group to drive quality improvement in the health care community.

(D) The ability of the group to promote health care consumerism through employee education, self-care, and comparative provider performance information.

(E) The ability of the group to meet any other criteria determined appropriate by the Secretary.

(e) COOPERATIVE GRANTS.—After the submission of a report by an eligible group under subsection (d)(1)(B), the Secretary shall determine whether to award the group a grant for the establishment of a cooperative under subsection (a). In making a determination under the preceding sentence, the Secretary shall consider the criteria described in subsection (d)(2) with respect to the group.

(f) COOPERATIVES.—

(1) IN GENERAL.—An eligible group awarded a grant under subsection (a) shall establish or expand a health insurance purchasing cooperative that shall—

(A) be a nonprofit organization;

(B) be wholly owned, and democratically governed by its member-employers;

(C) exist solely to serve the membership base;

(D) be governed by a board of directors that is democratically elected by the cooperative membership using a 1-member, 1-vote standard; and

(E) accept any new member in accordance with specific criteria, including a limitation on the number of members, determined by the Secretary.

(2) AUTHORIZED COOPERATIVE ACTIVITIES.—A cooperative established under paragraph (1) shall—

(A) assist the members of the cooperative in pooling their health care insurance purchasing power;

(B) provide data to improve the ability of the members of the cooperative to make data-based decisions regarding their health plans;

(C) conduct activities to enhance quality improvement in the health care community;

(D) work to promote health care consumerism through employee education, self-care, and comparative provider performance information; and

(E) conduct any other activities determined appropriate by the Secretary.

(g) REVIEW.—

(1) IN GENERAL.—Not later than 1 year after the date on which grants are awarded under this section, and every 2 years thereafter, the Secretary shall study the programs funded under the grants and submit to the appropriate committees of Congress a report on the progress of such programs in improving the access of employees to quality, affordable health insurance.

(2) SLIDING SCALE FUNDING.—The Secretary shall use the information included in the report submitted under paragraph (1) to establish a schedule for scaling back payments under this section with the goal of ensuring that programs funded with grants under this section are self sufficient within 10 years.

SEC. 4. GRANTS TO SMALL BUSINESSES TO FORM HEALTH CARE COOPERATIVES.

The Secretary shall carry out a grant program that is identical to the grant program provided for in section 3, except that an eligible group for purposes of a grant under this section shall be a consortium of 2 or more employers, including agricultural producers, each of which—

(1) have 99 employees or less; and

(2) are purchasers of health insurance (are not self-insured) for their employees.

SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

From the administrative funds provided to the Secretary for each fiscal year, the Secretary may use not to exceed a total of $60,000,000 for fiscal years 2009 through 2018 to carry out this Act.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 164—AMENDING SENATE RESOLUTION 400, 94TH CONGRESS, AND SENATE RESOLUTION 445, 108TH CONGRESS, TO IMPROVE CONGRESSIONAL OVERSIGHT OF THE INTELLIGENCE ACTIVITIES OF THE UNITED STATES, TO PROVIDE A STRONG, STABLE, AND CAPABLE CONGRESSIONAL COMMITTEE STRUCTURE TO PROVIDE THE INTELLIGENCE COMMUNITY APPROPRIATE OVERSIGHT, SUPPORT, AND LEADERSHIP, AND TO IMPLEMENT A KEY RECOMMENDATION OF THE NATIONAL COMMISSION ON TERRORIST ATTACKS UPON THE UNITED STATES

Mr. FEINGOLD (for himself, Mr. BURR, Mr. BAYH, Ms. SNOWE, and Mr. MCCAIN) submitted the following resolution; which was referred to the Committee on Rules and Administration:

S. RES. 164

Whereas the National Commission on Terrorist Attacks Upon the United States (hereinafter referred to as the ''9/11 Commission'') conducted a lengthy review of the facts and circumstances relating to the terrorist attacks of September 11, 2001, including those relating to the intelligence community, law enforcement agencies, and the role of congressional oversight and resource allocation;

Whereas in its final report, the 9/11 Commission found that congressional oversight of the intelligence activities of the United States is dysfunctional;

Whereas in its final report, the 9/11 Commission further found that under the rules of the Senate and the House of Representatives in effect at the time the report was completed, the committees of Congress charged with oversight of the intelligence activities lacked the power, influence, and sustained capability to meet the daunting challenges faced by the intelligence community of the United States;

Whereas in its final report, the 9/11 Commission further found that as long as such oversight is governed by such rules of the Senate and the House of Representatives, the people of the United States will not get the security they want and need;

Whereas in its final report, the 9/11 Commission further found that a strong, stable, and capable congressional committee structure is needed to give the intelligence community of the United States appropriate oversight, support, and leadership;

Whereas in its final report, the 9/11 Commission further found that the reforms recommended by the 9/11 Commission in its final report will not succeed if congressional oversight of the intelligence community in the United States is not changed;

Whereas in its final report, the 9/11 Commission recommended structural changes to Congress to improve the oversight of intelligence activities;

Whereas in its final report, the 9/11 Commission further recommended that the authorizing authorities and appropriating authorities with respect to intelligence activities in each house of Congress be combined into a single committee in each house of Congress;

Whereas Congress has enacted some of the recommendations made by the 9/11 Commission and is considering implementing additional recommendations of the 9/11 Commission; and

Whereas the Senate adopted Senate Resolution 445 in the 108th Congress to address some of the intelligence oversight recommendations of the 9/11 Commission by abolishing term limits for the members of the Select Committee on Intelligence, clarifying jurisdiction for intelligence-related nominations, and streamlining procedures for the referral of intelligence-related legislation, but other aspects of the 9/11 Commission recommendations regarding intelligence oversight have not been implemented: Now, therefore, be it

Resolved,

SECTION 1. PURPOSES.

The purposes of this resolution are—

(1) to improve congressional oversight of the intelligence activities of the United States;

(2) to provide a strong, stable, and capable congressional committee structure to provide the intelligence community appropriate oversight, support, and leadership;

(3) to implement a key recommendation of the National Commission on Terrorist Attacks Upon the United States (the ''9/11 Commission'') that structural changes be made to Congress to improve the oversight of intelligence activities; and

(4) to provide vigilant legislative oversight over the intelligence activities of the United States to ensure that such activities are in conformity with the Constitution and laws of the United States.

SEC. 2. INTELLIGENCE OVERSIGHT.

(a) AUTHORITY OF THE SELECT COMMITTEE ON INTELLIGENCE.—Paragraph (5) of section 3(a) of Senate Resolution 400, agreed to May 19, 1976 (94th Congress), is amended in that matter preceding subparagraph (A) by striking the comma following ''authorizations for appropriations'' and inserting ''and appropriations,''.

(b) ABOLISHMENT OF THE SUBCOMMITTEE ON INTELLIGENCE.—Senate Resolution 445, agreed to October 9, 2004, (108th Congress), is amended by striking section 402.

Mr. FEINGOLD. Mr. President, I am introducing today, along with Senators BURR, BAYH, SNOWE and MCCAIN, a resolution that will implement a key recommendation of the 9/11 Commission—

the granting of appropriations authority to the Senate Intelligence Committee. This effort to reform and improve congressional oversight has a long bipartisan history. It began as an amendment offered by Senator MCCAIN to the 2004 reorganizing resolution that accompanied the intelligence reform bill. And, in the last Congress, this resolution was introduced by Senator BURR. It should also be noted that it has the same bipartisan set of cosponsors as it did last year, despite the change of administration. This underscores the principle that effective congressional oversight is neither a partisan nor political issue and that it has nothing to do with who the President is. It is about ensuring that the Intelligence Community is keeping America safe, complying with the Constitution and laws of our country, and using taxpayer dollars in an appropriate manner.

Next month will mark the 5th anniversary of the release of the 9/11 Commission's report. The country is by now familiar with the many recommendations of the Commission that have been implemented, including the establishment of the DNI and the National Counterterrorism Center. Yet, the Commission stressed that, ''Of all our recommendations, strengthening congressional oversight may be among the most difficult and important.''

In November 2007, Lee Hamilton, the former Vice Chairman of the Commission testified to the Senate Intelligence Committee on behalf of himself and former Chairman Tom Kean and again emphasized what needs to be done. He testified that:

The single most important step to strengthen the power of the intelligence committees is to give them the power of the purse. Without it, they will be marginalized. The intelligence community will not ignore you, but they will work around you. In a crunch, they will go to the Appropriations Committee. Within the Congress, the two bodies with the jurisdiction, time and expertise to carry out a careful review of the budget and activities of the Intelligence Community are the Senate and House intelligence committees. Yet all of us have to live by the Gold Rule: That is, he who controls the Gold makes the Rules.

The testimony of the former Chairman and Vice Chairman highlighted three practical examples of why this particular reform is so critical. First, if and when the U.S. goes to war, the decision will ride largely on intelligence—and oversight is critical to ensuring that the intelligence community gets it right. Second, oversight is necessary to safeguard the privacy and civil liberties of Americans in an age of enhanced collection capabilities and data mining. Third, the success of intelligence reform requires sustained congressional oversight.

Vigorous, effective, independent congressional oversight is fundamental to the checks and balances of our constitutional system. In recent years, we have seen outright contempt for this oversight, particularly as the previous administration sought to hide the CIA's detention and interrogation and the NSA's warrantless wiretapping programs from Congress. But the inauguration of a new president has not removed all impediments to effective oversight, nor is it a guarantee that serious abuses won't occur in the future. That is why the implementation of this reform is just as important as ever and why this resolution has bipartisan support.

In the end, this reform is not just about our constitutional system, as important as that is. It is about how best to protect the American people. As Lee Hamilton testified, ''the strong point simply is that the Senate of the U.S. and the House of the U.S. is not doing its job. And because you are not doing the job, the country is not as safe as it ought to be, because one of my premises is that robust oversight is necessary for a stronger intelligence community.''

The implementation of this reform is long overdue. It has been more than seven and a half years since the attacks of 9/11, almost 5years since the 9/11 Commission made this recommendation, and a year and a half since the Senate Intelligence Committee heard directly from former Chairman Hamilton and former Vice Chairman Kean. There should be no more excuses, or delays.

SENATE RESOLUTION 165—TO ENCOURAGE RECOGNITION OF 2009 AS THE ''YEAR OF THE MILITARY FAMILY''

Mr. LEVIN (for himself, Mr. MCCAIN, Mr. NELSON of Nebraska, and Mr. GRAHAM) submitted the following resolution; which was considered and agreed to:

S. RES. 165

Whereas there are more than 1.8 million family members of regular component members of the Armed Forces and an additional 1.1 million family members of reserve component members;

Whereas slightly more than half of all members of the regular and reserve components are married, and just over 40 percent of military spouses are 30 years or younger and 60 percent of military spouses are under 36 years of age;

Whereas there are nearly 1.2 million children between the ages of birth and 23 years who are dependents of regular component members, and there are over 713,000 children between such ages who are dependents of reserve component members;

Whereas the largest group of minor children of regular component members consist of children between the ages of birth and 5 years, while the largest group of minor children of reserve component members consist of children between the ages of 6 and 14 years;

Whereas the needs, resources, and challenges confronting a military family, particularly when a member of the family has been deployed, vastly differ between younger age children and children who are older;

Whereas the United States recognizes that military families are also serving their country, and the United States must ensure that all the needs of military dependent children are being met, for children of members of both the regular and reserve components;

Whereas military families often face unique challenges and difficulties that are inherent to military life, including long separations from loved ones, the repetitive demands of frequent deployments, and frequent uprooting of community ties resulting from moves to bases across the country and overseas;

Whereas thousands of military family members have taken on volunteer responsibilities to assist units and members of the Armed Forces who have been deployed by supporting family readiness groups, helping military spouses meet the demands of a single parent during a deployment, or providing a shoulder to cry on or the comfort of understanding;

Whereas military families provide members of the Armed Forces with the strength and emotional support that is needed from the home front for members preparing to deploy, who are deployed, or who are returning from deployment;

Whereas some military families have given the ultimate sacrifice in the loss of a principal family member in defense of the United States; and

Whereas 2009 would be an appropriate year to designate as the ''Year of the Military Family'': Now, therefore be it

Resolved by the Senate, That the Senate—

(1) expresses its deepest appreciation to the families of members of the Armed Forces who serve, or have served, in defense of the United States;

(2) recognizes the contributions that military families make, and encourages the people of the United States to share their appreciation for the sacrifices military families give on behalf of the United States; and

(3) encourages the people of the United States and the Department of Defense to observe the ''Year of Military Family'' with appropriate ceremonies and activities.

SENATE RESOLUTION 166—TO AUTHORIZE THE PRINTING OF A COLLECTION OF THE RULES OF THE COMMITTEES OF THE SENATE

Mr. SCHUMER submitted the following resolution; which was considered and agreed to:

S. RES. 166

Resolved, That a collection of the rules of the committees of the Senate, together with related materials, be printed as a Senate document, and that there be printed 300 additional copies of such document for the use of the Committee on Rules and Administration.

AMENDMENTS SUBMITTED AND PROPOSED

SA 1225. Mr. COBURN submitted an amendment intended to be proposed by him to the bill H.R. 1256, to protect the public health by providing the Food and Drug Administration with certain authority to regulate tobacco products, to amend title 5, United States Code, to make certain modifications in the Thrift Savings Plan, the Civil Service Retirement System, and the Federal Employees' Retirement System, and for other purposes; which was ordered to lie on the table.

SA 1226. Mr. COBURN submitted an amendment intended to be proposed by him to the bill H.R. 1256, supra; which was ordered to lie on the table.

SA 1227. Mr. COBURN submitted an amendment intended to be proposed by him to the bill H.R. 1256, supra; which was ordered to lie on the table.

SA 1228. Mr. HATCH submitted an amendment intended to be proposed by him to the bill H.R. 1256, supra; which was ordered to lie on the table.

SA 1229. Mr. DORGAN (for himself, Ms. SNOWE, Mr. MCCAIN, Ms. STABENOW, Mr. SANDERS, and Ms. KLOBUCHAR) submitted an amendment intended to be proposed by him to the bill H.R. 1256, supra; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 1225. Mr. COBURN submitted an amendment intended to be proposed by him to the bill H.R. 1256, to protect the public health by providing the Food and Drug Administration with certain authority to regulate tobacco products, to amend title 5, United States Code, to make certain modifications in the Thrift Savings Plan, the Civil Service Retirement System, and the Federal Employees' Retirement System, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place insert the following:

SEC. ___. MARIJUANA.

(a) IN GENERAL.—The Secretary of Health and Human Services shall—

(1) require that if a State permits the use of marijuana without adhering to the established legal processes associated with the Federal Food, Drug, and Cosmetic Act, the State-permitted marijuana shall be subject to the full regulatory requirements of the Food and Drug Administration, including a risk evaluation and mitigation strategy and all other requirements and penalties of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.) regarding safe and effective reviews, approval, sale, marketing, and use of pharmaceuticals; and

(2) require that any State-permitted marijuana likely to be offered to, or purchased by, consumers as marijuana intended to be consumed as a cigarette will be subject to section 900 of the Federal Food Drug and Cosmetic Act (as amended by section 101).

(b) MODIFICATION OF STATE LAWS.—

(1) IN GENERAL.—Section 1926 of the Public Health Service Act (42 U.S.C. 300x-26) is amended—

(A) in the section heading, by inserting ''**AND MARIJUANA**'' after ''**TOBACCO**'';

(B) in subsection (a)(1), by inserting ''or marijuana'' after ''tobacco''; and

(C) in subsection (b)—

(i) in paragraph (1), by inserting ''and marijuana'' after ''tobacco''; and

(ii) in paragraph (2)(B)(ii), by inserting ''and marijuana'' after ''tobacco''.

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall apply with respect to State laws beginning in fiscal year 2010, except that in the case of a State whose legislature does not convene a regular session in fiscal year 2009, such amendments shall apply beginning in fiscal year 2011.

SA 1226. Mr. COBURN submitted an amendment intended to be proposed by him to the bill H.R. 1256, to protect the public health by providing the Food and Drug Administration with certain authority to regulate tobacco products, to amend title 5, United States Code, to make certain modifications in the Thrift Savings Plan, the Civil Service Retirement System, and the Federal Employees' Retirement System, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place in division A insert the following:

SEC. ___. INDEPENDENT STUDY OF FEDERAL TOBACCO REGULATORY ACTIVITIES EFFECTIVENESS.

(a) IN GENERAL.—Not later than 12 months after the date of enactment of this Act, the Comptroller General of the United States shall—

(1) develop performance measures for the Food and Drug Administration's regulatory activities with respect to tobacco; and

(2) recommend program evaluations that should be conducted for programs and activities related to tobacco regulation that are administered by the Food and Drug Administration.

(b) CONTENTS.—The performance measures developed under subsection (a) shall—

(1) to the maximum extent practicable draw on research-based, quantitative data;

(2) take into account program and activity purpose and design;

(3) include criteria to evaluate the cost effectiveness of programs and activities conducted by the Food and Drug Administration related to tobacco;

(4) include criteria to evaluate the administration and management of programs and activities conducted by the Food and Drug Administration related to tobacco;

(5) include criteria to evaluate harm-reduction strategies approved by the Food and Drug Administration;

(6) include criteria to evaluate whether consumers are better informed relating to health and dependency effects or safety of tobacco;

(7) include criteria to evaluate if the Food and Drug Administration's programs make tobacco less accessible to minors; and

(8) include criteria to evaluate whether the Food and Drug Administration's programs have encouraged smoking cessation and reduced tobacco-related disease

(c) REPORT.—Not later than 2 years after the development of the performance measures under subsection (a), and every 5 years thereafter, the Comptroller General of the United States shall prepare and submit to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Energy and Commerce of the House of Representatives, a report containing an assessment of each such program and activity with respect to the performance measures and program evaluations developed under subsection (a).

SA 1227. Mr. COBURN submitted an amendment intended to be proposed by him to the bill H.R. 1256, to protect the public health by providing the Food and Drug Administration with certain authority to regulate tobacco products, to amend title 5, United States Code, to make certain modifications in the Thrift Savings Plan, the Civil Service Retirement System, and the Federal Employees' Retirement System, and for other purposes; which was ordered to lie on the table; as follows:

Beginning in section 102(a) of division A, strike paragraph (5) and all that follows through section 103(g) of such division and insert the following:

(5) ENFORCEMENT.—

(A) IN GENERAL.—The Secretary of Health and Human Services shall ensure that the provisions of this Act, the amendments made by this Act, and the implementing regulations (including such provisions, amendments, and regulations relating to the retail sale of tobacco products) are enforced with respect to the United States.

(B) INDIAN TRIBES.—The Secretary of Health and Human Services shall ensure that the provisions of this Act, the amendments made by this Act, and the implementing regulations (including such provisions, amendments, and regulations relating to the retail sale of tobacco products) apply to, and are enforced with respect to, Indian tribes.

(6) QUALIFIED ADULT-ONLY FACILITY.—A qualified adult-only facility (as such term is defined in section 897.16(d) of the final rule published under paragraph (1)) that is also a retailer and that commits a violation as a retailer shall not be subject to the limitations in section 103(q) and shall be subject to penalties applicable to a qualified adult-only facility.

(7) CONGRESSIONAL REVIEW PROVISIONS.—Section 801 of title 5, United States Code, shall not apply to the final rule published under paragraph (1).

(b) LIMITATION ON ADVISORY OPINIONS.—As of the date of enactment of this Act, the following documents issued by the Food and Drug Administration shall not constitute advisory opinions under section 10.85(d)(1) of title 21, Code of Federal Regulations, except as they apply to tobacco products, and shall not be cited by the Secretary of Health and Human Services or the Food and Drug Administration as binding precedent:

(1) The preamble to the proposed rule in the document titled ''Regulations Restricting the Sale and Distribution of Cigarettes and Smokeless Tobacco Products to Protect Children and Adolescents'' (60 Fed. Reg. 41314–41372 (August 11, 1995)).

(2) The document titled ''Nicotine in Cigarettes and Smokeless Tobacco Products is a Drug and These Products Are Nicotine Delivery Devices Under the Federal Food, Drug, and Cosmetic Act'' (60 Fed. Reg. 41453–41787 (August 11, 1995)).

(3) The preamble to the final rule in the document titled ''Regulations Restricting the Sale and Distribution of Cigarettes and Smokeless Tobacco to Protect Children and Adolescents'' (61 Fed. Reg. 44396–44615 (August 28, 1996)).

(4) The document titled ''Nicotine in Cigarettes and Smokeless Tobacco is a Drug and These Products are Nicotine Delivery Devices Under the Federal Food, Drug, and Cosmetic Act; Jurisdictional Determination'' (61 Fed. Reg. 44619–45318 (August 28, 1996)).

SEC. 103. CONFORMING AND OTHER AMENDMENTS TO GENERAL PROVISIONS.

(a) AMENDMENT OF FEDERAL FOOD, DRUG, AND COSMETIC ACT.—Except as otherwise expressly provided, whenever in this section an amendment is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference is to a section or other provision of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.).

(b) SECTION 301.—Section 301 (21 U.S.C. 331) is amended—

(1) in subsection (a), by inserting ''tobacco product,'' after ''device,'';

(2) in subsection (b), by inserting ''tobacco product,'' after ''device,'';

(3) in subsection (c), by inserting ''tobacco product,'' after ''device,'';

(4) in subsection (e)—

(A) by striking the period after ''572(i)''; and

(B) by striking ''or 761 or the refusal to permit access to'' and inserting ''761, 909, or 920 or the refusal to permit access to'';

(5) in subsection (g), by inserting ''tobacco product,'' after ''device,'';

(6) in subsection (h), by inserting ''tobacco product,'' after ''device,'';

(7) in subsection (j)—

(A) by striking the period after ''573''; and

(B) by striking ''708, or 721'' and inserting ''708, 721, 904, 905, 906, 907, 908, 909, or 920(b)'';

(8) in subsection (k), by inserting ''tobacco product,'' after ''device,'';

(9) by striking subsection (p) and inserting the following:

''(p) The failure to register in accordance with section 510 or 905, the failure to provide any information required by section 510(j), 510(k), 905(i), or 905(j), or the failure to provide a notice required by section 510(j)(2) or 905(i)(3).'';

(10) by striking subsection (q)(1) and inserting the following:

''(q)(1) The failure or refusal—

''(A) to comply with any requirement prescribed under section 518, 520(g), 903(b), 907, 908, or 915;

''(B) to furnish any notification or other material or information required by or under section 519, 520(g), 904, 909, or 920; or

''(C) to comply with a requirement under section 522 or 913.'';

(11) in subsection (q)(2), by striking ''device,'' and inserting ''device or tobacco product,'';

(12) in subsection (r), by inserting ''or tobacco product'' after the term ''device'' each time that such term appears; and

(13) by adding at the end the following:

''(oo) The sale of tobacco products in violation of a no-tobacco-sale order issued under section 303(f).

''(pp) The introduction or delivery for introduction into interstate commerce of a tobacco product in violation of section 911.

''(qq)(1) Forging, counterfeiting, simulating, or falsely representing, or without proper authority using any mark, stamp (including tax stamp), tag, label, or other identification device upon any tobacco product or container or labeling thereof so as to render such tobacco product a counterfeit tobacco product.

''(2) Making, selling, disposing of, or keeping in possession, control, or custody, or concealing any punch, die, plate, stone, or other item that is designed to print, imprint, or reproduce the trademark, trade name, or other identifying mark, imprint, or device of another or any likeness of any of the foregoing upon any tobacco product or container or labeling thereof so as to render such tobacco product a counterfeit tobacco product.

''(3) The doing of any act that causes a tobacco product to be a counterfeit tobacco product, or the sale or dispensing, or the holding for sale or dispensing, of a counterfeit tobacco product.

''(rr) The charitable distribution of tobacco products.

''(ss) The failure of a manufacturer or distributor to notify the Attorney General and the Secretary of the Treasury of their knowledge of tobacco products used in illicit trade.

''(tt) Making any express or implied statement or representation directed to consumers with respect to a tobacco product, in a label or labeling or through the media or advertising, that either conveys, or misleads or would mislead consumers into believing, that—

''(1) the product is approved by the Food and Drug Administration;

''(2) the Food and Drug Administration deems the product to be safe for use by consumers;

''(3) the product is endorsed by the Food and Drug Administration for use by consumers; or

''(4) the product is safe or less harmful by virtue of—

''(A) its regulation or inspection by the Food and Drug Administration; or

''(B) its compliance with regulatory requirements set by the Food and Drug Administration;

including any such statement or representation rendering the product misbranded under section 903.''.

(c) SECTION 303.—Section 303(f) (21 U.S.C. 333(f)) is amended—

(1) in paragraph (1)(A), by inserting ''or tobacco products'' after the term ''devices'' each place such term appears;

(2) in paragraph (5)—

(A) in subparagraph (A)—

(i) by striking ''assessed'' the first time it appears and inserting ''assessed, or a no-tobacco-sale order may be imposed,''; and

(ii) by striking ''penalty'' the second time it appears and inserting ''penalty, or upon whom a no-tobacco-sale order is to be imposed,'';

(B) in subparagraph (B)—

(i) by inserting after ''penalty,'' the following: ''or the period to be covered by a no-tobacco-sale order,''; and

(ii) by adding at the end the following: ''A no-tobacco-sale order permanently prohibiting an individual retail outlet from selling tobacco products shall include provisions that allow the outlet, after a specified period of time, to request that the Secretary compromise, modify, or terminate the order.''; and

(C) by adding at the end the following:

''(D) The Secretary may compromise, modify, or terminate, with or without conditions, any no-tobacco-sale order.'';

(3) in paragraph (6)—

(A) by inserting ''or the imposition of a no-tobacco-sale order'' after the term ''penalty'' each place such term appears; and

(B) by striking ''issued.'' and inserting ''issued, or on which the no-tobacco-sale order was imposed, as the case may be.''; and

(4) by adding at the end the following:

''(8) If the Secretary finds that a person has committed repeated violations of restrictions promulgated under section 906(d) at a particular retail outlet then the Secretary may impose a no-tobacco-sale order on that person prohibiting the sale of tobacco products in that outlet. A no-tobacco-sale order may be imposed with a civil penalty under paragraph (1). Prior to the entry of a no-sale order under this paragraph, a person shall be entitled to a hearing pursuant to the procedures established through regulations of the Food and Drug Administration for assessing civil money penalties, including at a retailer's request a hearing by telephone, or at the nearest regional or field office of the Food and Drug Administration, or at a Federal, State, or county facility within 100 miles from the location of the retail outlet, if such a facility is available.''.

(d) SECTION 304.—Section 304 (21 U.S.C. 334) is amended—

(1) in subsection (a)(2)—

(A) by striking ''and'' before ''(D)''; and

(B) by striking ''device.'' and inserting the following: ''device, and (E) Any adulterated or misbranded tobacco product.'';

(2) in subsection (d)(1), by inserting ''tobacco product,'' after ''device,'';

(3) in subsection (g)(1), by inserting ''or tobacco product'' after the term ''device'' each place such term appears; and

(4) in subsection (g)(2)(A), by inserting ''or tobacco product'' after ''device''.

(e) SECTION 505.—Section 505(n)(2) (21 U.S.C. 355(n)(2)) is amended by striking ''section 904'' and inserting ''section 1004''.

(f) SECTION 523.—Section 523(b)(2)(D) (21 U.S.C. 360m(b)(2)(D)) is amended by striking ''section 903(g)'' and inserting ''section 1003(g)''.

(g) SECTION 702.—Section 702(a)(1) (U.S.C. 372(a)(1)) is amended—

(1) by striking ''(a)(1)'' and inserting ''(a)(1)(A)''; and

(2) by adding at the end the following:

''(B) For a tobacco product, to the extent feasible, the Secretary shall contract with the States in accordance with this paragraph to carry out inspections of retailers within that State in connection with the enforcement of this Act.''.

SA 1228. Mr. HATCH submitted an amendment intended to be proposed by him to the bill H.R. 1256, to protect the public health by providing the Food and Drug Administration with certain authority to regulate tobacco products, to amend title 5, United States Code, to make certain modifications in the Thrift Savings Plan, the Civil Service Retirement System, and the Federal Employees' Retirement System, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. STUDY CONCERNING THE IMPACT ON PUBLIC HEALTH PROGRAMS.

The Comptroller General of the United States shall conduct a study of the impact that this Act (and the amendments made by this Act) may have on Federal public health programs (including the State Children's Health Insurance Program under title XXI of the Social Security Act). Not later than 1 year after the date of enactment of this Act, the Comptroller General shall submit to Congress, a report on the findings made in study conducted under this section.

SA 1229. Mr. DORGAN (for himself, Ms. SNOWE, Mr. MCCAIN, Ms. STABENOW, Mr. SANDERS, and Ms. KLOBUCHAR) submitted an amendment intended to be proposed by him to the bill H.R. 1256, to protect the public health by providing the Food and Drug Administration with certain authority to regulate tobacco products, to amend title 5, United States Code, to make certain modifications in the Thrift Savings Plan, the Civil Service Retirement System, and the Federal Employees' Retirement System, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

DIVISION ___—IMPORTATION OF PRESCRIPTION DRUGS

SEC. 1. SHORT TITLE.

This division may be cited as the ''Pharmaceutical Market Access and Drug Safety Act of 2009''.

SEC. 2. FINDINGS.

Congress finds that—

(1) Americans unjustly pay up to 5 times more to fill their prescriptions than consumers in other countries;

(2) the United States is the largest market for pharmaceuticals in the world, yet American consumers pay the highest prices for brand pharmaceuticals in the world;

(3) a prescription drug is neither safe nor effective to an individual who cannot afford it;

(4) allowing and structuring the importation of prescription drugs to ensure access to safe and affordable drugs approved by the Food and Drug Administration will provide a level of safety to American consumers that they do not currently enjoy;

(5) American spend more than $200,000,000,000 on prescription drugs every year;

(6) the Congressional Budget Office has found that the cost of prescription drugs are between 35 to 55 percent less in other highly-developed countries than in the United States; and

(7) promoting competitive market pricing would both contribute to health care savings

and allow greater access to therapy, improving health and saving lives.

SEC. 3. REPEAL OF CERTAIN SECTION REGARDING IMPORTATION OF PRESCRIPTION DRUGS.

Chapter VIII of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 381 et seq.) is amended by striking section 804.

SEC. 4. IMPORTATION OF PRESCRIPTION DRUGS; WAIVER OF CERTAIN IMPORT RESTRICTIONS.

(a) IN GENERAL.—Chapter VIII of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 381 et seq.), as amended by section 3, is further amended by inserting after section 803 the following:

''SEC. 804. COMMERCIAL AND PERSONAL IMPORTATION OF PRESCRIPTION DRUGS.

''(a) IMPORTATION OF PRESCRIPTION DRUGS.—

''(1) IN GENERAL.—In the case of qualifying drugs imported or offered for import into the United States from registered exporters or by registered importers—

''(A) the limitation on importation that is established in section 801(d)(1) is waived; and

''(B) the standards referred to in section 801(a) regarding admission of the drugs are subject to subsection (g) of this section (including with respect to qualifying drugs to which section 801(d)(1) does not apply).

''(2) IMPORTERS.—A qualifying drug may not be imported under paragraph (1) unless—

''(A) the drug is imported by a pharmacy, group of pharmacies, or a wholesaler that is a registered importer; or

''(B) the drug is imported by an individual for personal use or for the use of a family member of the individual (not for resale) from a registered exporter.

''(3) RULE OF CONSTRUCTION.—This section shall apply only with respect to a drug that is imported or offered for import into the United States—

''(A) by a registered importer; or

''(B) from a registered exporter to an individual.

''(4) DEFINITIONS.—

''(A) REGISTERED EXPORTER; REGISTERED IMPORTER.—For purposes of this section:

''(i) The term 'registered exporter' means an exporter for which a registration under subsection (b) has been approved and is in effect.

''(ii) The term 'registered importer' means a pharmacy, group of pharmacies, or a wholesaler for which a registration under subsection (b) has been approved and is in effect.

''(iii) The term 'registration condition' means a condition that must exist for a registration under subsection (b) to be approved.

''(B) QUALIFYING DRUG.—For purposes of this section, the term 'qualifying drug' means a drug for which there is a corresponding U.S. label drug.

''(C) U.S. LABEL DRUG.—For purposes of this section, the term 'U.S. label drug' means a prescription drug that—

''(i) with respect to a qualifying drug, has the same active ingredient or ingredients, route of administration, dosage form, and strength as the qualifying drug;

''(ii) with respect to the qualifying drug, is manufactured by or for the person that manufactures the qualifying drug;

''(iii) is approved under section 505(c); and

''(iv) is not—

''(I) a controlled substance, as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802);

''(II) a biological product, as defined in section 351 of the Public Health Service Act (42 U.S.C. 262), including—

''(aa) a therapeutic DNA plasmid product;

''(bb) a therapeutic synthetic peptide product;

''(cc) a monoclonal antibody product for in vivo use; and

''(dd) a therapeutic recombinant DNA-derived product;

''(III) an infused drug, including a peritoneal dialysis solution;

''(IV) an injected drug;

''(V) a drug that is inhaled during surgery;

''(VI) a drug that is the listed drug referred to in 2 or more abbreviated new drug applications under which the drug is commercially marketed; or

''(VII) a sterile opthlamic drug intended for topical use on or in the eye.

''(D) OTHER DEFINITIONS.—For purposes of this section:

''(i)(I) The term 'exporter' means a person that is in the business of exporting a drug to individuals in the United States from Canada or from a permitted country designated by the Secretary under subclause (II), or that, pursuant to submitting a registration under subsection (b), seeks to be in such business.

''(II) The Secretary shall designate a permitted country under subparagraph (E) (other than Canada) as a country from which an exporter may export a drug to individuals in the United States if the Secretary determines that—

''(aa) the country has statutory or regulatory standards that are equivalent to the standards in the United States and Canada with respect to—

''(AA) the training of pharmacists;

''(BB) the practice of pharmacy; and

''(CC) the protection of the privacy of personal medical information; and

''(bb) the importation of drugs to individuals in the United States from the country will not adversely affect public health.

''(ii) The term 'importer' means a pharmacy, a group of pharmacies, or a wholesaler that is in the business of importing a drug into the United States or that, pursuant to submitting a registration under subsection (b), seeks to be in such business.

''(iii) The term 'pharmacist' means a person licensed by a State to practice pharmacy, including the dispensing and selling of prescription drugs.

''(iv) The term 'pharmacy' means a person that—

''(I) is licensed by a State to engage in the business of selling prescription drugs at retail; and

''(II) employs 1 or more pharmacists.

''(v) The term 'prescription drug' means a drug that is described in section 503(b)(1).

''(vi) The term 'wholesaler'—

''(I) means a person licensed as a wholesaler or distributor of prescription drugs in the United States under section 503(e)(2)(A); and

''(II) does not include a person authorized to import drugs under section 801(d)(1).

''(E) PERMITTED COUNTRY.—The term 'permitted country' means—

''(i) Australia;

''(ii) Canada;

''(iii) a member country of the European Union, but does not include a member country with respect to which—

''(I) the country's Annex to the Treaty of Accession to the European Union 2003 includes a transitional measure for the regulation of human pharmaceutical products that has not expired; or

''(II) the Secretary determines that the requirements described in subclauses (I) and (II) of clause (vii) will not be met by the date on which such transitional measure for the regulation of human pharmaceutical products expires;

''(iv) Japan;

''(v) New Zealand;

''(vi) Switzerland; and

''(vii) a country in which the Secretary determines the following requirements are met:

''(I) The country has statutory or regulatory requirements—

''(aa) that require the review of drugs for safety and effectiveness by an entity of the government of the country;

''(bb) that authorize the approval of only those drugs that have been determined to be safe and effective by experts employed by or acting on behalf of such entity and qualified by scientific training and experience to evaluate the safety and effectiveness of drugs on the basis of adequate and well-controlled investigations, including clinical investigations, conducted by experts qualified by scientific training and experience to evaluate the safety and effectiveness of drugs;

''(cc) that require the methods used in, and the facilities and controls used for the manufacture, processing, and packing of drugs in the country to be adequate to preserve their identity, quality, purity, and strength;

''(dd) for the reporting of adverse reactions to drugs and procedures to withdraw approval and remove drugs found not to be safe or effective; and

''(ee) that require the labeling and promotion of drugs to be in accordance with the approval of the drug.

''(II) The valid marketing authorization system in the country is equivalent to the systems in the countries described in clauses (i) through (vi).

''(III) The importation of drugs to the United States from the country will not adversely affect public health.

''(b) REGISTRATION OF IMPORTERS AND EXPORTERS.—

''(1) REGISTRATION OF IMPORTERS AND EXPORTERS.—A registration condition is that the importer or exporter involved (referred to in this subsection as a 'registrant') submits to the Secretary a registration containing the following:

''(A)(i) In the case of an exporter, the name of the exporter and an identification of all places of business of the exporter that relate to qualifying drugs, including each warehouse or other facility owned or controlled by, or operated for, the exporter.

''(ii) In the case of an importer, the name of the importer and an identification of the places of business of the importer at which the importer initially receives a qualifying drug after importation (which shall not exceed 3 places of business except by permission of the Secretary).

''(B) Such information as the Secretary determines to be necessary to demonstrate that the registrant is in compliance with registration conditions under—

''(i) in the case of an importer, subsections (c), (d), (e), (g), and (j) (relating to the sources of imported qualifying drugs; the inspection of facilities of the importer; the payment of fees; compliance with the standards referred to in section 801(a); and maintenance of records and samples); or

''(ii) in the case of an exporter, subsections (c), (d), (f), (g), (h), (i), and (j) (relating to the sources of exported qualifying drugs; the inspection of facilities of the exporter and the marking of compliant shipments; the payment of fees; and compliance with the standards referred to in section 801(a); being licensed as a pharmacist; conditions for individual importation; and maintenance of records and samples).

''(C) An agreement by the registrant that the registrant will not under subsection (a) import or export any drug that is not a qualifying drug.

''(D) An agreement by the registrant to—

''(i) notify the Secretary of a recall or withdrawal of a qualifying drug distributed

in a permitted country that the registrant has exported or imported, or intends to export or import, to the United States under subsection (a);

''(ii) provide for the return to the registrant of such drug; and

''(iii) cease, or not begin, the exportation or importation of such drug unless the Secretary has notified the registrant that exportation or importation of such drug may proceed.

''(E) An agreement by the registrant to ensure and monitor compliance with each registration condition, to promptly correct any noncompliance with such a condition, and to promptly report to the Secretary any such noncompliance.

''(F) A plan describing the manner in which the registrant will comply with the agreement under subparagraph (E).

''(G) An agreement by the registrant to enforce a contract under subsection (c)(3)(B) against a party in the chain of custody of a qualifying drug with respect to the authority of the Secretary under clauses (ii) and (iii) of that subsection.

''(H) An agreement by the registrant to notify the Secretary not more than 30 days before the registrant intends to make the change, of—

''(i) any change that the registrant intends to make regarding information provided under subparagraph (A) or (B); and

''(ii) any change that the registrant intends to make in the compliance plan under subparagraph (F).

''(I) In the case of an exporter:

''(i) An agreement by the exporter that a qualifying drug will not under subsection (a) be exported to any individual not authorized pursuant to subsection (a)(2)(B) to be an importer of such drug.

''(ii) An agreement to post a bond, payable to the Treasury of the United States that is equal in value to the lesser of—

''(I) the value of drugs exported by the exporter to the United States in a typical 4-week period over the course of a year under this section; or

''(II) $1,000,000.

''(iii) An agreement by the exporter to comply with applicable provisions of Canadian law, or the law of the permitted country designated under subsection (a)(4)(D)(i)(II) in which the exporter is located, that protect the privacy of personal information with respect to each individual importing a prescription drug from the exporter under subsection (a)(2)(B).

''(iv) An agreement by the exporter to report to the Secretary—

''(I) not later than August 1 of each fiscal year, the total price and the total volume of drugs exported to the United States by the exporter during the 6-month period from January 1 through June 30 of that year; and

''(II) not later than January 1 of each fiscal year, the total price and the total volume of drugs exported to the United States by the exporter during the previous fiscal year.

''(J) In the case of an importer, an agreement by the importer to report to the Secretary—

''(i) not later than August 1 of each fiscal year, the total price and the total volume of drugs imported to the United States by the importer during the 6-month period from January 1 through June 30 of that fiscal year; and

''(ii) not later than January 1 of each fiscal year, the total price and the total volume of drugs imported to the United States by the importer during the previous fiscal year.

''(K) Such other provisions as the Secretary may require by regulation to protect the public health while permitting—

''(i) the importation by pharmacies, groups of pharmacies, and wholesalers as registered importers of qualifying drugs under subsection (a); and

''(ii) importation by individuals of qualifying drugs under subsection (a).

''(2) APPROVAL OR DISAPPROVAL OF REGISTRATION.—

''(A) IN GENERAL.—Not later than 90 days after the date on which a registrant submits to the Secretary a registration under paragraph (1), the Secretary shall notify the registrant whether the registration is approved or is disapproved. The Secretary shall disapprove a registration if there is reason to believe that the registrant is not in compliance with one or more registration conditions, and shall notify the registrant of such reason. In the case of a disapproved registration, the Secretary shall subsequently notify the registrant that the registration is approved if the Secretary determines that the registrant is in compliance with such conditions.

''(B) CHANGES IN REGISTRATION INFORMATION.—Not later than 30 days after receiving a notice under paragraph (1)(H) from a registrant, the Secretary shall determine whether the change involved affects the approval of the registration of the registrant under paragraph (1), and shall inform the registrant of the determination.

''(3) PUBLICATION OF CONTACT INFORMATION FOR REGISTERED EXPORTERS.—Through the Internet website of the Food and Drug Administration and a toll-free telephone number, the Secretary shall make readily available to the public a list of registered exporters, including contact information for the exporters. Promptly after the approval of a registration submitted under paragraph (1), the Secretary shall update the Internet website and the information provided through the toll-free telephone number accordingly.

''(4) SUSPENSION AND TERMINATION.—

''(A) SUSPENSION.—With respect to the effectiveness of a registration submitted under paragraph (1):

''(i) Subject to clause (ii), the Secretary may suspend the registration if the Secretary determines, after notice and opportunity for a hearing, that the registrant has failed to maintain substantial compliance with a registration condition.

''(ii) If the Secretary determines that, under color of the registration, the exporter has exported a drug or the importer has imported a drug that is not a qualifying drug, or a drug that does not comply with subsection (g)(2)(A) or (g)(4), or has exported a qualifying drug to an individual in violation of subsection (i)(2)(F), the Secretary shall immediately suspend the registration. A suspension under the preceding sentence is not subject to the provision by the Secretary of prior notice, and the Secretary shall provide to the registrant an opportunity for a hearing not later than 10 days after the date on which the registration is suspended.

''(iii) The Secretary may reinstate the registration, whether suspended under clause (i) or (ii), if the Secretary determines that the registrant has demonstrated that further violations of registration conditions will not occur.

''(B) TERMINATION.—The Secretary, after notice and opportunity for a hearing, may terminate the registration under paragraph (1) of a registrant if the Secretary determines that the registrant has engaged in a pattern or practice of violating 1 or more registration conditions, or if on 1 or more occasions the Secretary has under subparagraph (A)(ii) suspended the registration of the registrant. The Secretary may make the termination permanent, or for a fixed period of not less than 1 year. During the period in which the registration is terminated, any registration submitted under paragraph (1) by the registrant, or a person that is a partner in the export or import enterprise, or a principal officer in such enterprise, and any registration prepared with the assistance of the registrant or such a person, has no legal effect under this section.

''(5) DEFAULT OF BOND.—A bond required to be posted by an exporter under paragraph (1)(I)(ii) shall be defaulted and paid to the Treasury of the United States if, after opportunity for an informal hearing, the Secretary determines that the exporter has—

''(A) exported a drug to the United States that is not a qualifying drug or that is not in compliance with subsection (g)(2)(A), (g)(4), or (i); or

''(B) failed to permit the Secretary to conduct an inspection described under subsection (d).

''(c) SOURCES OF QUALIFYING DRUGS.—A registration condition is that the exporter or importer involved agrees that a qualifying drug will under subsection (a) be exported or imported into the United States only if there is compliance with the following:

''(1) The drug was manufactured in an establishment—

''(A) required to register under subsection (h) or (i) of section 510; and

''(B)(i) inspected by the Secretary; or

''(ii) for which the Secretary has elected to rely on a satisfactory report of a good manufacturing practice inspection of the establishment from a permitted country whose regulatory system the Secretary recognizes as equivalent under a mutual recognition agreement, as provided for under section 510(i)(3), section 803, or part 26 of title 21, Code of Federal Regulations (or any corresponding successor rule or regulation).

''(2) The establishment is located in any country, and the establishment manufactured the drug for distribution in the United States or for distribution in 1 or more of the permitted countries (without regard to whether in addition the drug is manufactured for distribution in a foreign country that is not a permitted country).

''(3) The exporter or importer obtained the drug—

''(A) directly from the establishment; or

''(B) directly from an entity that, by contract with the exporter or importer—

''(i) provides to the exporter or importer a statement (in such form and containing such information as the Secretary may require) that, for the chain of custody from the establishment, identifies each prior sale, purchase, or trade of the drug (including the date of the transaction and the names and addresses of all parties to the transaction);

''(ii) agrees to permit the Secretary to inspect such statements and related records to determine their accuracy;

''(iii) agrees, with respect to the qualifying drugs involved, to permit the Secretary to inspect warehouses and other facilities, including records, of the entity for purposes of determining whether the facilities are in compliance with any standards under this Act that are applicable to facilities of that type in the United States; and

''(iv) has ensured, through such contractual relationships as may be necessary, that the Secretary has the same authority regarding other parties in the chain of custody from the establishment that the Secretary has under clauses (ii) and (iii) regarding such entity.

''(4)(A) The foreign country from which the importer will import the drug is a permitted country; or

''(B) The foreign country from which the exporter will export the drug is the permitted country in which the exporter is located.

''(5) During any period in which the drug was not in the control of the manufacturer

of the drug, the drug did not enter any country that is not a permitted country.

''(6) The exporter or importer retains a sample of each lot of the drug for testing by the Secretary.

''(d) INSPECTION OF FACILITIES; MARKING OF SHIPMENTS.—

''(1) INSPECTION OF FACILITIES.—A registration condition is that, for the purpose of assisting the Secretary in determining whether the exporter involved is in compliance with all other registration conditions—

''(A) the exporter agrees to permit the Secretary—

''(i) to conduct onsite inspections, including monitoring on a day-to-day basis, of places of business of the exporter that relate to qualifying drugs, including each warehouse or other facility owned or controlled by, or operated for, the exporter;

''(ii) to have access, including on a day-to-day basis, to—

''(I) records of the exporter that relate to the export of such drugs, including financial records; and

''(II) samples of such drugs;

''(iii) to carry out the duties described in paragraph (3); and

''(iv) to carry out any other functions determined by the Secretary to be necessary regarding the compliance of the exporter; and

''(B) the Secretary has assigned 1 or more employees of the Secretary to carry out the functions described in this subsection for the Secretary randomly, but not less than 12 times annually, on the premises of places of businesses referred to in subparagraph (A)(i), and such an assignment remains in effect on a continuous basis.

''(2) MARKING OF COMPLIANT SHIPMENTS.—A registration condition is that the exporter involved agrees to affix to each shipping container of qualifying drugs exported under subsection (a) such markings as the Secretary determines to be necessary to identify the shipment as being in compliance with all registration conditions. Markings under the preceding sentence shall—

''(A) be designed to prevent affixation of the markings to any shipping container that is not authorized to bear the markings; and

''(B) include anticounterfeiting or track-and-trace technologies, taking into account the economic and technical feasibility of those technologies.

''(3) CERTAIN DUTIES RELATING TO EXPORTERS.—Duties of the Secretary with respect to an exporter include the following:

''(A) Inspecting, randomly, but not less than 12 times annually, the places of business of the exporter at which qualifying drugs are stored and from which qualifying drugs are shipped.

''(B) During the inspections under subparagraph (A), verifying the chain of custody of a statistically significant sample of qualifying drugs from the establishment in which the drug was manufactured to the exporter, which shall be accomplished or supplemented by the use of anticounterfeiting or track-and-trace technologies, taking into account the economic and technical feasibility of those technologies, except that a drug that lacks such technologies from the point of manufacture shall not for that reason be excluded from importation by an exporter.

''(C) Randomly reviewing records of exports to individuals for the purpose of determining whether the drugs are being imported by the individuals in accordance with the conditions under subsection (i). Such reviews shall be conducted in a manner that will result in a statistically significant determination of compliance with all such conditions.

''(D) Monitoring the affixing of markings under paragraph (2).

''(E) Inspecting as the Secretary determines is necessary the warehouses and other facilities, including records, of other parties in the chain of custody of qualifying drugs.

''(F) Determining whether the exporter is in compliance with all other registration conditions.

''(4) PRIOR NOTICE OF SHIPMENTS.—A registration condition is that, not less than 8 hours and not more than 5 days in advance of the time of the importation of a shipment of qualifying drugs, the importer involved agrees to submit to the Secretary a notice with respect to the shipment of drugs to be imported or offered for import into the United States under subsection (a). A notice under the preceding sentence shall include—

''(A) the name and complete contact information of the person submitting the notice;

''(B) the name and complete contact information of the importer involved;

''(C) the identity of the drug, including the established name of the drug, the quantity of the drug, and the lot number assigned by the manufacturer;

''(D) the identity of the manufacturer of the drug, including the identity of the establishment at which the drug was manufactured;

''(E) the country from which the drug is shipped;

''(F) the name and complete contact information for the shipper of the drug;

''(G) anticipated arrival information, including the port of arrival and crossing location within that port, and the date and time;

''(H) a summary of the chain of custody of the drug from the establishment in which the drug was manufactured to the importer;

''(I) a declaration as to whether the Secretary has ordered that importation of the drug from the permitted country cease under subsection (g)(2)(C) or (D); and

''(J) such other information as the Secretary may require by regulation.

''(5) MARKING OF COMPLIANT SHIPMENTS.—A registration condition is that the importer involved agrees, before wholesale distribution (as defined in section 503(e)) of a qualifying drug that has been imported under subsection (a), to affix to each container of such drug such markings or other technology as the Secretary determines necessary to identify the shipment as being in compliance with all registration conditions, except that the markings or other technology shall not be required on a drug that bears comparable, compatible markings or technology from the manufacturer of the drug. Markings or other technology under the preceding sentence shall—

''(A) be designed to prevent affixation of the markings or other technology to any container that is not authorized to bear the markings; and

''(B) shall include anticounterfeiting or track-and-trace technologies, taking into account the economic and technical feasibility of such technologies.

''(6) CERTAIN DUTIES RELATING TO IMPORTERS.—Duties of the Secretary with respect to an importer include the following:

''(A) Inspecting, randomly, but not less than 12 times annually, the places of business of the importer at which a qualifying drug is initially received after importation.

''(B) During the inspections under subparagraph (A), verifying the chain of custody of a statistically significant sample of qualifying drugs from the establishment in which the drug was manufactured to the importer, which shall be accomplished or supplemented by the use of anticounterfeiting or track-and-trace technologies, taking into account the economic and technical feasibility of those technologies, except that a drug that lacks such technologies from the point of manufacture shall not for that reason be excluded from importation by an importer.

''(C) Reviewing notices under paragraph (4).

''(D) Inspecting as the Secretary determines is necessary the warehouses and other facilities, including records of other parties in the chain of custody of qualifying drugs.

''(E) Determining whether the importer is in compliance with all other registration conditions.

''(e) IMPORTER FEES.—

''(1) REGISTRATION FEE.—A registration condition is that the importer involved pays to the Secretary a fee of $10,000 due on the date on which the importer first submits the registration to the Secretary under subsection (b).

''(2) INSPECTION FEE.—A registration condition is that the importer involved pays a fee to the Secretary in accordance with this subsection. Such fee shall be paid not later than October 1 and April 1 of each fiscal year in the amount provided for under paragraph (3).

''(3) AMOUNT OF INSPECTION FEE.—

''(A) AGGREGATE TOTAL OF FEES.—Not later than 30 days before the start of each fiscal year, the Secretary, in consultation with the Secretary of Homeland Security and the Secretary of the Treasury, shall establish an aggregate total of fees to be collected under paragraph (2) for importers for that fiscal year that is sufficient, and not more than necessary, to pay the costs for that fiscal year of administering this section with respect to registered importers, including the costs associated with—

''(i) inspecting the facilities of registered importers, and of other entities in the chain of custody of a qualifying drug as necessary, under subsection (d)(6);

''(ii) developing, implementing, and operating under such subsection an electronic system for submission and review of the notices required under subsection (d)(4) with respect to shipments of qualifying drugs under subsection (a) to assess compliance with all registration conditions when such shipments are offered for import into the United States; and

''(iii) inspecting such shipments as necessary, when offered for import into the United States to determine if such a shipment should be refused admission under subsection (g)(5).

''(B) LIMITATION.—Subject to subparagraph (C), the aggregate total of fees collected under paragraph (2) for a fiscal year shall not exceed 2.5 percent of the total price of qualifying drugs imported during that fiscal year into the United States by registered importers under subsection (a).

''(C) TOTAL PRICE OF DRUGS.—

''(i) ESTIMATE.—For the purposes of complying with the limitation described in subparagraph (B) when establishing under subparagraph (A) the aggregate total of fees to be collected under paragraph (2) for a fiscal year, the Secretary shall estimate the total price of qualifying drugs imported into the United States by registered importers during that fiscal year by adding the total price of qualifying drugs imported by each registered importer during the 6-month period from January 1 through June 30 of the previous fiscal year, as reported to the Secretary by each registered importer under subsection (b)(1)(J).

''(ii) CALCULATION.—Not later than March 1 of the fiscal year that follows the fiscal year for which the estimate under clause (i) is made, the Secretary shall calculate the total price of qualifying drugs imported into the United States by registered importers during that fiscal year by adding the total price of qualifying drugs imported by each registered importer during that fiscal year, as reported

to the Secretary by each registered importer under subsection (b)(1)(J).

''(iii) ADJUSTMENT.—If the total price of qualifying drugs imported into the United States by registered importers during a fiscal year as calculated under clause (ii) is less than the aggregate total of fees collected under paragraph (2) for that fiscal year, the Secretary shall provide for a pro-rata reduction in the fee due from each registered importer on April 1 of the subsequent fiscal year so that the limitation described in subparagraph (B) is observed.

''(D) INDIVIDUAL IMPORTER FEE.—Subject to the limitation described in subparagraph (B), the fee under paragraph (2) to be paid on October 1 and April 1 by an importer shall be an amount that is proportional to a reasonable estimate by the Secretary of the semiannual share of the importer of the volume of qualifying drugs imported by importers under subsection (a).

''(4) USE OF FEES.—

''(A) IN GENERAL.—Subject to appropriations Acts, fees collected by the Secretary under paragraphs (1) and (2) shall be credited to the appropriation account for salaries and expenses of the Food and Drug Administration until expended (without fiscal year limitation), and the Secretary may, in consultation with the Secretary of Homeland Security and the Secretary of the Treasury, transfer some proportion of such fees to the appropriation account for salaries and expenses of the Bureau of Customs and Border Protection until expended (without fiscal year limitation).

''(B) SOLE PURPOSE.—Fees collected by the Secretary under paragraphs (1) and (2) are only available to the Secretary and, if transferred, to the Secretary of Homeland Security, and are for the sole purpose of paying the costs referred to in paragraph (3)(A).

''(5) COLLECTION OF FEES.—In any case where the Secretary does not receive payment of a fee assessed under paragraph (1) or (2) within 30 days after it is due, such fee shall be treated as a claim of the United States Government subject to subchapter II of chapter 37 of title 31, United States Code.

''(f) EXPORTER FEES.—

''(1) REGISTRATION FEE.—A registration condition is that the exporter involved pays to the Secretary a fee of $10,000 due on the date on which the exporter first submits that registration to the Secretary under subsection (b).

''(2) INSPECTION FEE.—A registration condition is that the exporter involved pays a fee to the Secretary in accordance with this subsection. Such fee shall be paid not later than October 1 and April 1 of each fiscal year in the amount provided for under paragraph (3).

''(3) AMOUNT OF INSPECTION FEE.—

''(A) AGGREGATE TOTAL OF FEES.—Not later than 30 days before the start of each fiscal year, the Secretary, in consultation with the Secretary of Homeland Security and the Secretary of the Treasury, shall establish an aggregate total of fees to be collected under paragraph (2) for exporters for that fiscal year that is sufficient, and not more than necessary, to pay the costs for that fiscal year of administering this section with respect to registered exporters, including the costs associated with—

''(i) inspecting the facilities of registered exporters, and of other entities in the chain of custody of a qualifying drug as necessary, under subsection (d)(3);

''(ii) developing, implementing, and operating under such subsection a system to screen marks on shipments of qualifying drugs under subsection (a) that indicate compliance with all registration conditions, when such shipments are offered for import into the United States; and

''(iii) screening such markings, and inspecting such shipments as necessary, when offered for import into the United States to determine if such a shipment should be refused admission under subsection (g)(5).

''(B) LIMITATION.—Subject to subparagraph (C), the aggregate total of fees collected under paragraph (2) for a fiscal year shall not exceed 2.5 percent of the total price of qualifying drugs imported during that fiscal year into the United States by registered exporters under subsection (a).

''(C) TOTAL PRICE OF DRUGS.—

''(i) ESTIMATE.—For the purposes of complying with the limitation described in subparagraph (B) when establishing under subparagraph (A) the aggregate total of fees to be collected under paragraph (2) for a fiscal year, the Secretary shall estimate the total price of qualifying drugs imported into the United States by registered exporters during that fiscal year by adding the total price of qualifying drugs exported by each registered exporter during the 6-month period from January 1 through June 30 of the previous fiscal year, as reported to the Secretary by each registered exporter under subsection (b)(1)(I)(iv).

''(ii) CALCULATION.—Not later than March 1 of the fiscal year that follows the fiscal year for which the estimate under clause (i) is made, the Secretary shall calculate the total price of qualifying drugs imported into the United States by registered exporters during that fiscal year by adding the total price of qualifying drugs exported by each registered exporter during that fiscal year, as reported to the Secretary by each registered exporter under subsection (b)(1)(I)(iv).

''(iii) ADJUSTMENT.—If the total price of qualifying drugs imported into the United States by registered exporters during a fiscal year as calculated under clause (ii) is less than the aggregate total of fees collected under paragraph (2) for that fiscal year, the Secretary shall provide for a pro-rata reduction in the fee due from each registered exporter on April 1 of the subsequent fiscal year so that the limitation described in subparagraph (B) is observed.

''(D) INDIVIDUAL EXPORTER FEE.—Subject to the limitation described in subparagraph (B), the fee under paragraph (2) to be paid on October 1 and April 1 by an exporter shall be an amount that is proportional to a reasonable estimate by the Secretary of the semiannual share of the exporter of the volume of qualifying drugs exported by exporters under subsection (a).

''(4) USE OF FEES.—

''(A) IN GENERAL.—Subject to appropriations Acts, fees collected by the Secretary under paragraphs (1) and (2) shall be credited to the appropriation account for salaries and expenses of the Food and Drug Administration until expended (without fiscal year limitation), and the Secretary may, in consultation with the Secretary of Homeland Security and the Secretary of the Treasury, transfer some proportion of such fees to the appropriation account for salaries and expenses of the Bureau of Customs and Border Protection until expended (without fiscal year limitation).

''(B) SOLE PURPOSE.—Fees collected by the Secretary under paragraphs (1) and (2) are only available to the Secretary and, if transferred, to the Secretary of Homeland Security, and are for the sole purpose of paying the costs referred to in paragraph (3)(A).

''(5) COLLECTION OF FEES.—In any case where the Secretary does not receive payment of a fee assessed under paragraph (1) or (2) within 30 days after it is due, such fee shall be treated as a claim of the United States Government subject to subchapter II of chapter 37 of title 31, United States Code.

''(g) COMPLIANCE WITH SECTION 801(a).—

''(1) IN GENERAL.—A registration condition is that each qualifying drug exported under subsection (a) by the registered exporter involved or imported under subsection (a) by the registered importer involved is in compliance with the standards referred to in section 801(a) regarding admission of the drug into the United States, subject to paragraphs (2), (3), and (4).

''(2) SECTION 505; APPROVAL STATUS.—

''(A) IN GENERAL.—A qualifying drug that is imported or offered for import under subsection (a) shall comply with the conditions established in the approved application under section 505(b) for the U.S. label drug as described under this subsection.

''(B) NOTICE BY MANUFACTURER; GENERAL PROVISIONS.—

''(i) IN GENERAL.—The person that manufactures a qualifying drug that is, or will be, introduced for commercial distribution in a permitted country shall in accordance with this paragraph submit to the Secretary a notice that—

''(I) includes each difference in the qualifying drug from a condition established in the approved application for the U.S. label drug beyond—

''(aa) the variations provided for in the application; and

''(bb) any difference in labeling (except ingredient labeling); or

''(II) states that there is no difference in the qualifying drug from a condition established in the approved application for the U.S. label drug beyond—

''(aa) the variations provided for in the application; and

''(bb) any difference in labeling (except ingredient labeling).

''(ii) INFORMATION IN NOTICE.—A notice under clause (i)(I) shall include the information that the Secretary may require under section 506A, any additional information the Secretary may require (which may include data on bioequivalence if such data are not required under section 506A), and, with respect to the permitted country that approved the qualifying drug for commercial distribution, or with respect to which such approval is sought, include the following:

''(I) The date on which the qualifying drug with such difference was, or will be, introduced for commercial distribution in the permitted country.

''(II) Information demonstrating that the person submitting the notice has also notified the government of the permitted country in writing that the person is submitting to the Secretary a notice under clause (i)(I), which notice describes the difference in the qualifying drug from a condition established in the approved application for the U.S. label drug.

''(III) The information that the person submitted or will submit to the government of the permitted country for purposes of obtaining approval for commercial distribution of the drug in the country which, if in a language other than English, shall be accompanied by an English translation verified to be complete and accurate, with the name, address, and a brief statement of the qualifications of the person that made the translation.

''(iii) CERTIFICATIONS.—The chief executive officer and the chief medical officer of the manufacturer involved shall each certify in the notice under clause (i) that—

''(I) the information provided in the notice is complete and true; and

''(II) a copy of the notice has been provided to the Federal Trade Commission and to the State attorneys general.

''(iv) FEE.—If a notice submitted under clause (i) includes a difference that would, under section 506A, require the submission of a supplemental application if made as a

change to the U.S. label drug, the person that submits the notice shall pay to the Secretary a fee in the same amount as would apply if the person were paying a fee pursuant to section 736(a)(1)(A)(ii). Subject to appropriations Acts, fees collected by the Secretary under the preceding sentence are available only to the Secretary and are for the sole purpose of paying the costs of reviewing notices submitted under clause (i).

''(v) TIMING OF SUBMISSION OF NOTICES.—

''(I) PRIOR APPROVAL NOTICES.—A notice under clause (i) to which subparagraph (C) applies shall be submitted to the Secretary not later than 120 days before the qualifying drug with the difference is introduced for commercial distribution in a permitted country, unless the country requires that distribution of the qualifying drug with the difference begin less than 120 days after the country requires the difference.

''(II) OTHER APPROVAL NOTICES.—A notice under clause (i) to which subparagraph (D) applies shall be submitted to the Secretary not later than the day on which the qualifying drug with the difference is introduced for commercial distribution in a permitted country.

''(III) OTHER NOTICES.—A notice under clause (i) to which subparagraph (E) applies shall be submitted to the Secretary on the date that the qualifying drug is first introduced for commercial distribution in a permitted country and annually thereafter.

''(vi) REVIEW BY SECRETARY.—

''(I) IN GENERAL.—In this paragraph, the difference in a qualifying drug that is submitted in a notice under clause (i) from the U.S. label drug shall be treated by the Secretary as if it were a manufacturing change to the U.S. label drug under section 506A.

''(II) STANDARD OF REVIEW.—Except as provided in subclause (III), the Secretary shall review and approve or disapprove the difference in a notice submitted under clause (i), if required under section 506A, using the safe and effective standard for approving or disapproving a manufacturing change under section 506A.

''(III) BIOEQUIVALENCE.—If the Secretary would approve the difference in a notice submitted under clause (i) using the safe and effective standard under section 506A and if the Secretary determines that the qualifying drug is not bioequivalent to the U.S. label drug, the Secretary shall—

''(aa) include in the labeling provided under paragraph (3) a prominent advisory that the qualifying drug is safe and effective but is not bioequivalent to the U.S. label drug if the Secretary determines that such an advisory is necessary for health care practitioners and patients to use the qualifying drug safely and effectively; or

''(bb) decline to approve the difference if the Secretary determines that the availability of both the qualifying drug and the U.S. label drug would pose a threat to the public health.

''(IV) REVIEW BY THE SECRETARY.—The Secretary shall review and approve or disapprove the difference in a notice submitted under clause (i), if required under section 506A, not later than 120 days after the date on which the notice is submitted.

''(V) ESTABLISHMENT INSPECTION.—If review of such difference would require an inspection of the establishment in which the qualifying drug is manufactured—

''(aa) such inspection by the Secretary shall be authorized; and

''(bb) the Secretary may rely on a satisfactory report of a good manufacturing practice inspection of the establishment from a permitted country whose regulatory system the Secretary recognizes as equivalent under a mutual recognition agreement, as provided under section 510(i)(3), section 803, or part 26 of title 21, Code of Federal Regulations (or any corresponding successor rule or regulation).

''(vii) PUBLICATION OF INFORMATION ON NOTICES.—

''(I) IN GENERAL.—Through the Internet website of the Food and Drug Administration and a toll-free telephone number, the Secretary shall readily make available to the public a list of notices submitted under clause (i).

''(II) CONTENTS.—The list under subclause (I) shall include the date on which a notice is submitted and whether—

''(aa) a notice is under review;

''(bb) the Secretary has ordered that importation of the qualifying drug from a permitted country cease; or

''(cc) the importation of the drug is permitted under subsection (a).

''(III) UPDATE.—The Secretary shall promptly update the Internet website with any changes to the list.

''(C) NOTICE; DRUG DIFFERENCE REQUIRING PRIOR APPROVAL.—In the case of a notice under subparagraph (B)(i) that includes a difference that would, under section 506A(c) or (d)(3)(B)(i), require the approval of a supplemental application before the difference could be made to the U.S. label drug the following shall occur:

''(i) Promptly after the notice is submitted, the Secretary shall notify registered exporters, registered importers, the Federal Trade Commission, and the State attorneys general that the notice has been submitted with respect to the qualifying drug involved.

''(ii) If the Secretary has not made a determination whether such a supplemental application regarding the U.S. label drug would be approved or disapproved by the date on which the qualifying drug involved is to be introduced for commercial distribution in a permitted country, the Secretary shall—

''(I) order that the importation of the qualifying drug involved from the permitted country not begin until the Secretary completes review of the notice; and

''(II) promptly notify registered exporters, registered importers, the Federal Trade Commission, and the State attorneys general of the order.

''(iii) If the Secretary determines that such a supplemental application regarding the U.S. label drug would not be approved, the Secretary shall—

''(I) order that the importation of the qualifying drug involved from the permitted country cease, or provide that an order under clause (ii), if any, remains in effect;

''(II) notify the permitted country that approved the qualifying drug for commercial distribution of the determination; and

''(III) promptly notify registered exporters, registered importers, the Federal Trade Commission, and the State attorneys general of the determination.

''(iv) If the Secretary determines that such a supplemental application regarding the U.S. label drug would be approved, the Secretary shall—

''(I) vacate the order under clause (ii), if any;

''(II) consider the difference to be a variation provided for in the approved application for the U.S. label drug;

''(III) permit importation of the qualifying drug under subsection (a); and

''(IV) promptly notify registered exporters, registered importers, the Federal Trade Commission, and the State attorneys general of the determination.

''(D) NOTICE; DRUG DIFFERENCE NOT REQUIRING PRIOR APPROVAL.—In the case of a notice under subparagraph (B)(i) that includes a difference that would, under section 506A(d)(3)(B)(ii), not require the approval of a supplemental application before the difference could be made to the U.S. label drug the following shall occur:

''(i) During the period in which the notice is being reviewed by the Secretary, the authority under this subsection to import the qualifying drug involved continues in effect.

''(ii) If the Secretary determines that such a supplemental application regarding the U.S. label drug would not be approved, the Secretary shall—

''(I) order that the importation of the qualifying drug involved from the permitted country cease;

''(II) notify the permitted country that approved the qualifying drug for commercial distribution of the determination; and

''(III) promptly notify registered exporters, registered importers, the Federal Trade Commission, and the State attorneys general of the determination.

''(iii) If the Secretary determines that such a supplemental application regarding the U.S. label drug would be approved, the difference shall be considered to be a variation provided for in the approved application for the U.S. label drug.

''(E) NOTICE; DRUG DIFFERENCE NOT REQUIRING APPROVAL; NO DIFFERENCE.—In the case of a notice under subparagraph (B)(i) that includes a difference for which, under section 506A(d)(1)(A), a supplemental application would not be required for the difference to be made to the U.S. label drug, or that states that there is no difference, the Secretary—

''(i) shall consider such difference to be a variation provided for in the approved application for the U.S. label drug;

''(ii) may not order that the importation of the qualifying drug involved cease; and

''(iii) shall promptly notify registered exporters and registered importers.

''(F) DIFFERENCES IN ACTIVE INGREDIENT, ROUTE OF ADMINISTRATION, DOSAGE FORM, OR STRENGTH.—

''(i) IN GENERAL.—A person who manufactures a drug approved under section 505(b) shall submit an application under section 505(b) for approval of another drug that is manufactured for distribution in a permitted country by or for the person that manufactures the drug approved under section 505(b) if—

''(I) there is no qualifying drug in commercial distribution in permitted countries whose combined population represents at least 50 percent of the total population of all permitted countries with the same active ingredient or ingredients, route of administration, dosage form, and strength as the drug approved under section 505(b); and

''(II) each active ingredient of the other drug is related to an active ingredient of the drug approved under section 505(b), as defined in clause (v).

''(ii) APPLICATION UNDER SECTION 505(b).—The application under section 505(b) required under clause (i) shall—

''(I) request approval of the other drug for the indication or indications for which the drug approved under section 505(b) is labeled;

''(II) include the information that the person submitted to the government of the permitted country for purposes of obtaining approval for commercial distribution of the other drug in that country, which if in a language other than English, shall be accompanied by an English translation verified to be complete and accurate, with the name, address, and a brief statement of the qualifications of the person that made the translation;

''(III) include a right of reference to the application for the drug approved under section 505(b); and

''(IV) include such additional information as the Secretary may require.

''(iii) TIMING OF SUBMISSION OF APPLICATION.—An application under section 505(b) required under clause (i) shall be submitted to the Secretary not later than the day on which the information referred to in clause (ii)(II) is submitted to the government of the permitted country.

''(iv) NOTICE OF DECISION ON APPLICATION.—The Secretary shall promptly notify registered exporters, registered importers, the Federal Trade Commission, and the State attorneys general of a determination to approve or to disapprove an application under section 505(b) required under clause (i).

''(v) RELATED ACTIVE INGREDIENTS.—For purposes of clause (i)(II), 2 active ingredients are related if they are—

''(I) the same; or

''(II) different salts, esters, or complexes of the same moiety.

''(3) SECTION 502; LABELING.—

''(A) IMPORTATION BY REGISTERED IMPORTER.—

''(i) IN GENERAL.—In the case of a qualifying drug that is imported or offered for import by a registered importer, such drug shall be considered to be in compliance with section 502 and the labeling requirements under the approved application for the U.S. label drug if the qualifying drug bears—

''(I) a copy of the labeling approved for the U.S. label drug under section 505, without regard to whether the copy bears any trademark involved;

''(II) the name of the manufacturer and location of the manufacturer;

''(III) the lot number assigned by the manufacturer;

''(IV) the name, location, and registration number of the importer; and

''(V) the National Drug Code number assigned to the qualifying drug by the Secretary.

''(ii) REQUEST FOR COPY OF THE LABELING.—The Secretary shall provide such copy to the registered importer involved, upon request of the importer.

''(iii) REQUESTED LABELING.—The labeling provided by the Secretary under clause (ii) shall—

''(I) include the established name, as defined in section 502(e)(3), for each active ingredient in the qualifying drug;

''(II) not include the proprietary name of the U.S. label drug or any active ingredient thereof;

''(III) if required under paragraph (2)(B)(vi)(III), a prominent advisory that the qualifying drug is safe and effective but not bioequivalent to the U.S. label drug; and

''(IV) if the inactive ingredients of the qualifying drug are different from the inactive ingredients for the U.S. label drug, include—

''(aa) a prominent notice that the ingredients of the qualifying drug differ from the ingredients of the U.S. label drug and that the qualifying drug must be dispensed with an advisory to people with allergies about this difference and a list of ingredients; and

''(bb) a list of the ingredients of the qualifying drug as would be required under section 502(e).

''(B) IMPORTATION BY INDIVIDUAL.—

''(i) IN GENERAL.—In the case of a qualifying drug that is imported or offered for import by a registered exporter to an individual, such drug shall be considered to be in compliance with section 502 and the labeling requirements under the approved application for the U.S. label drug if the packaging and labeling of the qualifying drug complies with all applicable regulations promulgated under sections 3 and 4 of the Poison Prevention Packaging Act of 1970 (15 U.S.C. 1471 et seq.) and the labeling of the qualifying drug includes—

''(I) directions for use by the consumer;

''(II) the lot number assigned by the manufacturer;

''(III) the name and registration number of the exporter;

''(IV) if required under paragraph (2)(B)(vi)(III), a prominent advisory that the drug is safe and effective but not bioequivalent to the U.S. label drug;

''(V) if the inactive ingredients of the drug are different from the inactive ingredients for the U.S. label drug—

''(aa) a prominent advisory that persons with an allergy should check the ingredient list of the drug because the ingredients of the drug differ from the ingredients of the U.S. label drug; and

''(bb) a list of the ingredients of the drug as would be required under section 502(e); and

''(VI) a copy of any special labeling that would be required by the Secretary had the U.S. label drug been dispensed by a pharmacist in the United States, without regard to whether the special labeling bears any trademark involved.

''(ii) PACKAGING.—A qualifying drug offered for import to an individual by an exporter under this section that is packaged in a unit-of-use container (as those items are defined in the United States Pharmacopeia and National Formulary) shall not be repackaged, provided that—

''(I) the packaging complies with all applicable regulations under sections 3 and 4 of the Poison Prevention Packaging Act of 1970 (15 U.S.C. 1471 et seq.); or

''(II) the consumer consents to waive the requirements of such Act, after being informed that the packaging does not comply with such Act and that the exporter will provide the drug in packaging that is compliant at no additional cost.

''(iii) REQUEST FOR COPY OF SPECIAL LABELING AND INGREDIENT LIST.—The Secretary shall provide to the registered exporter involved a copy of the special labeling, the advisory, and the ingredient list described under clause (i), upon request of the exporter.

''(iv) REQUESTED LABELING AND INGREDIENT LIST.—The labeling and ingredient list provided by the Secretary under clause (iii) shall—

''(I) include the established name, as defined in section 502(e)(3), for each active ingredient in the drug; and

''(II) not include the proprietary name of the U.S. label drug or any active ingredient thereof.

''(4) SECTION 501; ADULTERATION.—A qualifying drug that is imported or offered for import under subsection (a) shall be considered to be in compliance with section 501 if the drug is in compliance with subsection (c).

''(5) STANDARDS FOR REFUSING ADMISSION.—A drug exported under subsection (a) from a registered exporter or imported by a registered importer may be refused admission into the United States if 1 or more of the following applies:

''(A) The drug is not a qualifying drug.

''(B) A notice for the drug required under paragraph (2)(B) has not been submitted to the Secretary.

''(C) The Secretary has ordered that importation of the drug from the permitted country cease under paragraph (2) (C) or (D).

''(D) The drug does not comply with paragraph (3) or (4).

''(E) The shipping container appears damaged in a way that may affect the strength, quality, or purity of the drug.

''(F) The Secretary becomes aware that—

''(i) the drug may be counterfeit;

''(ii) the drug may have been prepared, packed, or held under insanitary conditions; or

''(iii) the methods used in, or the facilities or controls used for, the manufacturing, processing, packing, or holding of the drug do not conform to good manufacturing practice.

''(G) The Secretary has obtained an injunction under section 302 that prohibits the distribution of the drug in interstate commerce.

''(H) The Secretary has under section 505(e) withdrawn approval of the drug.

''(I) The manufacturer of the drug has instituted a recall of the drug.

''(J) If the drug is imported or offered for import by a registered importer without submission of a notice in accordance with subsection (d)(4).

''(K) If the drug is imported or offered for import from a registered exporter to an individual and 1 or more of the following applies:

''(i) The shipping container for such drug does not bear the markings required under subsection (d)(2).

''(ii) The markings on the shipping container appear to be counterfeit.

''(iii) The shipping container or markings appear to have been tampered with.

''(h) EXPORTER LICENSURE IN PERMITTED COUNTRY.—A registration condition is that the exporter involved agrees that a qualifying drug will be exported to an individual only if the Secretary has verified that—

''(1) the exporter is authorized under the law of the permitted country in which the exporter is located to dispense prescription drugs; and

''(2) the exporter employs persons that are licensed under the law of the permitted country in which the exporter is located to dispense prescription drugs in sufficient number to dispense safely the drugs exported by the exporter to individuals, and the exporter assigns to those persons responsibility for dispensing such drugs to individuals.

''(i) INDIVIDUALS; CONDITIONS FOR IMPORTATION.—

''(1) IN GENERAL.—For purposes of subsection (a)(2)(B), the importation of a qualifying drug by an individual is in accordance with this subsection if the following conditions are met:

''(A) The drug is accompanied by a copy of a prescription for the drug, which prescription—

''(i) is valid under applicable Federal and State laws; and

''(ii) was issued by a practitioner who, under the law of a State of which the individual is a resident, or in which the individual receives care from the practitioner who issues the prescription, is authorized to administer prescription drugs.

''(B) The drug is accompanied by a copy of the documentation that was required under the law or regulations of the permitted country in which the exporter is located, as a condition of dispensing the drug to the individual.

''(C) The copies referred to in subparagraphs (A)(i) and (B) are marked in a manner sufficient—

''(i) to indicate that the prescription, and the equivalent document in the permitted country in which the exporter is located, have been filled; and

''(ii) to prevent a duplicative filling by another pharmacist.

''(D) The individual has provided to the registered exporter a complete list of all drugs used by the individual for review by the individuals who dispense the drug.

''(E) The quantity of the drug does not exceed a 90-day supply.

''(F) The drug is not an ineligible subpart H drug. For purposes of this section, a prescription drug is an 'ineligible subpart H drug' if the drug was approved by the Secretary under subpart H of part 314 of title 21,

Code of Federal Regulations (relating to accelerated approval), with restrictions under section 520 of such part to assure safe use, and the Secretary has published in the Federal Register a notice that the Secretary has determined that good cause exists to prohibit the drug from being imported pursuant to this subsection.

''(2) NOTICE REGARDING DRUG REFUSED ADMISSION.—If a registered exporter ships a drug to an individual pursuant to subsection (a)(2)(B) and the drug is refused admission to the United States, a written notice shall be sent to the individual and to the exporter that informs the individual and the exporter of such refusal and the reason for the refusal.

''(j) MAINTENANCE OF RECORDS AND SAMPLES.—

''(1) IN GENERAL.—A registration condition is that the importer or exporter involved shall—

''(A) maintain records required under this section for not less than 2 years; and

''(B) maintain samples of each lot of a qualifying drug required under this section for not more than 2 years.

''(2) PLACE OF RECORD MAINTENANCE.—The records described under paragraph (1) shall be maintained—

''(A) in the case of an importer, at the place of business of the importer at which the importer initially receives the qualifying drug after importation; or

''(B) in the case of an exporter, at the facility from which the exporter ships the qualifying drug to the United States.

''(k) DRUG RECALLS.—

''(1) MANUFACTURERS.—A person that manufactures a qualifying drug imported from a permitted country under this section shall promptly inform the Secretary—

''(A) if the drug is recalled or withdrawn from the market in a permitted country;

''(B) how the drug may be identified, including lot number; and

''(C) the reason for the recall or withdrawal.

''(2) SECRETARY.—With respect to each permitted country, the Secretary shall—

''(A) enter into an agreement with the government of the country to receive information about recalls and withdrawals of qualifying drugs in the country; or

''(B) monitor recalls and withdrawals of qualifying drugs in the country using any information that is available to the public in any media.

''(3) NOTICE.—The Secretary may notify, as appropriate, registered exporters, registered importers, wholesalers, pharmacies, or the public of a recall or withdrawal of a qualifying drug in a permitted country.

''(l) DRUG LABELING AND PACKAGING.—

''(1) IN GENERAL.—When a qualifying drug that is imported into the United States by an importer under subsection (a) is dispensed by a pharmacist to an individual, the pharmacist shall provide that the packaging and labeling of the drug complies with all applicable regulations promulgated under sections 3 and 4 of the Poison Prevention Packaging Act of 1970 (15 U.S.C. 1471 et seq.) and shall include with any other labeling provided to the individual the following:

''(A) The lot number assigned by the manufacturer.

''(B) The name and registration number of the importer.

''(C) If required under paragraph (2)(B)(vi)(III) of subsection (g), a prominent advisory that the drug is safe and effective but not bioequivalent to the U.S. label drug.

''(D) If the inactive ingredients of the drug are different from the inactive ingredients for the U.S. label drug—

''(i) a prominent advisory that persons with allergies should check the ingredient list of the drug because the ingredients of the drug differ from the ingredients of the U.S. label drug; and

''(ii) a list of the ingredients of the drug as would be required under section 502(e).

''(2) PACKAGING.—A qualifying drug that is packaged in a unit-of-use container (as those terms are defined in the United States Pharmacopeia and National Formulary) shall not be repackaged, provided that—

''(A) the packaging complies with all applicable regulations under sections 3 and 4 of the Poison Prevention Packaging Act of 1970 (15 U.S.C. 1471 et seq.); or

''(B) the consumer consents to waive the requirements of such Act, after being informed that the packaging does not comply with such Act and that the pharmacist will provide the drug in packaging that is compliant at no additional cost.

''(m) CHARITABLE CONTRIBUTIONS.—Notwithstanding any other provision of this section, this section does not authorize the importation into the United States of a qualifying drug donated or otherwise supplied for free or at nominal cost by the manufacturer of the drug to a charitable or humanitarian organization, including the United Nations and affiliates, or to a government of a foreign country.

''(n) UNFAIR AND DISCRIMINATORY ACTS AND PRACTICES.—

''(1) IN GENERAL.—It is unlawful for a manufacturer, directly or indirectly (including by being a party to a licensing agreement or other agreement), to—

''(A) discriminate by charging a higher price for a prescription drug sold to a registered exporter or other person in a permitted country that exports a qualifying drug to the United States under this section than the price that is charged, inclusive of rebates or other incentives to the permitted country or other person, to another person that is in the same country and that does not export a qualifying drug into the United States under this section;

''(B) discriminate by charging a higher price for a prescription drug sold to a registered importer or other person that distributes, sells, or uses a qualifying drug imported into the United States under this section than the price that is charged to another person in the United States that does not import a qualifying drug under this section, or that does not distribute, sell, or use such a drug;

''(C) discriminate by denying, restricting, or delaying supplies of a prescription drug to a registered exporter or other person in a permitted country that exports a qualifying drug to the United States under this section or to a registered importer or other person that distributes, sells, or uses a qualifying drug imported into the United States under this section;

''(D) discriminate by publicly, privately, or otherwise refusing to do business with a registered exporter or other person in a permitted country that exports a qualifying drug to the United States under this section or with a registered importer or other person that distributes, sells, or uses a qualifying drug imported into the United States under this section;

''(E) knowingly fail to submit a notice under subsection (g)(2)(B)(i), knowingly fail to submit such a notice on or before the date specified in subsection (g)(2)(B)(v) or as otherwise required under subsection (e) (3), (4), and (5) of section 4 of the Pharmaceutical Market Access and Drug Safety Act of 2009, knowingly submit such a notice that makes a materially false, fictitious, or fraudulent statement, or knowingly fail to provide promptly any information requested by the Secretary to review such a notice;

''(F) knowingly fail to submit an application required under subsection (g)(2)(F), knowingly fail to submit such an application on or before the date specified in subsection (g)(2)(F)(ii), knowingly submit such an application that makes a materially false, fictitious, or fraudulent statement, or knowingly fail to provide promptly any information requested by the Secretary to review such an application;

''(G) cause there to be a difference (including a difference in active ingredient, route of administration, dosage form, strength, formulation, manufacturing establishment, manufacturing process, or person that manufactures the drug) between a prescription drug for distribution in the United States and the drug for distribution in a permitted country;

''(H) refuse to allow an inspection authorized under this section of an establishment that manufactures a qualifying drug that is, or will be, introduced for commercial distribution in a permitted country;

''(I) fail to conform to the methods used in, or the facilities used for, the manufacturing, processing, packing, or holding of a qualifying drug that is, or will be, introduced for commercial distribution in a permitted country to good manufacturing practice under this Act;

''(J) become a party to a licensing agreement or other agreement related to a qualifying drug that fails to provide for compliance with all requirements of this section with respect to such drug;

''(K) enter into a contract that restricts, prohibits, or delays the importation of a qualifying drug under this section;

''(L) engage in any other action to restrict, prohibit, or delay the importation of a qualifying drug under this section; or

''(M) engage in any other action that the Federal Trade Commission determines to discriminate against a person that engages or attempts to engage in the importation of a qualifying drug under this section.

''(2) REFERRAL OF POTENTIAL VIOLATIONS.—The Secretary shall promptly refer to the Federal Trade Commission each potential violation of subparagraph (E), (F), (G), (H), or (I) of paragraph (1) that becomes known to the Secretary.

''(3) AFFIRMATIVE DEFENSE.—

''(A) DISCRIMINATION.—It shall be an affirmative defense to a charge that a manufacturer has discriminated under subparagraph (A), (B), (C), (D), or (M) of paragraph (1) that the higher price charged for a prescription drug sold to a person, the denial, restriction, or delay of supplies of a prescription drug to a person, the refusal to do business with a person, or other discriminatory activity against a person, is not based, in whole or in part, on—

''(i) the person exporting or importing a qualifying drug into the United States under this section; or

''(ii) the person distributing, selling, or using a qualifying drug imported into the United States under this section.

''(B) DRUG DIFFERENCES.—It shall be an affirmative defense to a charge that a manufacturer has caused there to be a difference described in subparagraph (G) of paragraph (1) that—

''(i) the difference was required by the country in which the drug is distributed;

''(ii) the Secretary has determined that the difference was necessary to improve the safety or effectiveness of the drug;

''(iii) the person manufacturing the drug for distribution in the United States has given notice to the Secretary under subsection (g)(2)(B)(i) that the drug for distribution in the United States is not different from a drug for distribution in permitted countries whose combined population represents at least 50 percent of the total population of all permitted countries; or

''(iv) the difference was not caused, in whole or in part, for the purpose of restricting importation of the drug into the United States under this section.

''(4) EFFECT OF SUBSECTION.—

''(A) SALES IN OTHER COUNTRIES.—This subsection applies only to the sale or distribution of a prescription drug in a country if the manufacturer of the drug chooses to sell or distribute the drug in the country. Nothing in this subsection shall be construed to compel the manufacturer of a drug to distribute or sell the drug in a country.

''(B) DISCOUNTS TO INSURERS, HEALTH PLANS, PHARMACY BENEFIT MANAGERS, AND COVERED ENTITIES.—Nothing in this subsection shall be construed to—

''(i) prevent or restrict a manufacturer of a prescription drug from providing discounts to an insurer, health plan, pharmacy benefit manager in the United States, or covered entity in the drug discount program under section 340B of the Public Health Service Act (42 U.S.C. 256b) in return for inclusion of the drug on a formulary;

''(ii) require that such discounts be made available to other purchasers of the prescription drug; or

''(iii) prevent or restrict any other measures taken by an insurer, health plan, or pharmacy benefit manager to encourage consumption of such prescription drug.

''(C) CHARITABLE CONTRIBUTIONS.—Nothing in this subsection shall be construed to—

''(i) prevent a manufacturer from donating a prescription drug, or supplying a prescription drug at nominal cost, to a charitable or humanitarian organization, including the United Nations and affiliates, or to a government of a foreign country; or

''(ii) apply to such donations or supplying of a prescription drug.

''(5) ENFORCEMENT.—

''(A) UNFAIR OR DECEPTIVE ACT OR PRACTICE.—A violation of this subsection shall be treated as a violation of a rule defining an unfair or deceptive act or practice prescribed under section 18(a)(1)(B) of the Federal Trade Commission Act (15 U.S.C. 57a(a)(1)(B)).

''(B) ACTIONS BY THE COMMISSION.—The Federal Trade Commission—

''(i) shall enforce this subsection in the same manner, by the same means, and with the same jurisdiction, powers, and duties as though all applicable terms and provisions of the Federal Trade Commission Act (15 U.S.C. 41 et seq.) were incorporated into and made a part of this section; and

''(ii) may seek monetary relief threefold the damages sustained, in addition to any other remedy available to the Federal Trade Commission under the Federal Trade Commission Act (15 U.S.C. 41 et seq.).

''(6) ACTIONS BY STATES.—

''(A) IN GENERAL.—

''(i) CIVIL ACTIONS.—In any case in which the attorney general of a State has reason to believe that an interest of the residents of that State have been adversely affected by any manufacturer that violates paragraph (1), the attorney general of a State may bring a civil action on behalf of the residents of the State, and persons doing business in the State, in a district court of the United States of appropriate jurisdiction to—

''(I) enjoin that practice;

''(II) enforce compliance with this subsection;

''(III) obtain damages, restitution, or other compensation on behalf of residents of the State and persons doing business in the State, including threefold the damages; or

''(IV) obtain such other relief as the court may consider to be appropriate.

''(ii) NOTICE.—

''(I) IN GENERAL.—Before filing an action under clause (i), the attorney general of the State involved shall provide to the Federal Trade Commission—

''(aa) written notice of that action; and

''(bb) a copy of the complaint for that action.

''(II) EXEMPTION.—Subclause (I) shall not apply with respect to the filing of an action by an attorney general of a State under this paragraph, if the attorney general determines that it is not feasible to provide the notice described in that subclause before filing of the action. In such case, the attorney general of a State shall provide notice and a copy of the complaint to the Federal Trade Commission at the same time as the attorney general files the action.

''(B) INTERVENTION.—

''(i) IN GENERAL.—On receiving notice under subparagraph (A)(ii), the Federal Trade Commission shall have the right to intervene in the action that is the subject of the notice.

''(ii) EFFECT OF INTERVENTION.—If the Federal Trade Commission intervenes in an action under subparagraph (A), it shall have the right—

''(I) to be heard with respect to any matter that arises in that action; and

''(II) to file a petition for appeal.

''(C) CONSTRUCTION.—For purposes of bringing any civil action under subparagraph (A), nothing in this subsection shall be construed to prevent an attorney general of a State from exercising the powers conferred on the attorney general by the laws of that State to—

''(i) conduct investigations;

''(ii) administer oaths or affirmations; or

''(iii) compel the attendance of witnesses or the production of documentary and other evidence.

''(D) ACTIONS BY THE COMMISSION.—In any case in which an action is instituted by or on behalf of the Federal Trade Commission for a violation of paragraph (1), a State may not, during the pendency of that action, institute an action under subparagraph (A) for the same violation against any defendant named in the complaint in that action.

''(E) VENUE.—Any action brought under subparagraph (A) may be brought in the district court of the United States that meets applicable requirements relating to venue under section 1391 of title 28, United States Code.

''(F) SERVICE OF PROCESS.—In an action brought under subparagraph (A), process may be served in any district in which the defendant—

''(i) is an inhabitant; or

''(ii) may be found.

''(G) MEASUREMENT OF DAMAGES.—In any action under this paragraph to enforce a cause of action under this subsection in which there has been a determination that a defendant has violated a provision of this subsection, damages may be proved and assessed in the aggregate by statistical or sampling methods, by the computation of illegal overcharges or by such other reasonable system of estimating aggregate damages as the court in its discretion may permit without the necessity of separately proving the individual claim of, or amount of damage to, persons on whose behalf the suit was brought.

''(H) EXCLUSION ON DUPLICATIVE RELIEF.—The district court shall exclude from the amount of monetary relief awarded in an action under this paragraph brought by the attorney general of a State any amount of monetary relief which duplicates amounts which have been awarded for the same injury.

''(7) EFFECT ON ANTITRUST LAWS.—Nothing in this subsection shall be construed to modify, impair, or supersede the operation of the antitrust laws. For the purpose of this subsection, the term 'antitrust laws' has the meaning given it in the first section of the Clayton Act, except that it includes section 5 of the Federal Trade Commission Act to the extent that such section 5 applies to unfair methods of competition.

''(8) MANUFACTURER.—In this subsection, the term 'manufacturer' means any entity, including any affiliate or licensee of that entity, that is engaged in—

''(A) the production, preparation, propagation, compounding, conversion, or processing of a prescription drug, either directly or indirectly by extraction from substances of natural origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis; or

''(B) the packaging, repackaging, labeling, relabeling, or distribution of a prescription drug.''.

(b) PROHIBITED ACTS.—The Federal Food, Drug, and Cosmetic Act is amended—

(1) in section 301 (21 U.S.C. 331), by striking paragraph (aa) and inserting the following:

''(aa)(1) The sale or trade by a pharmacist, or by a business organization of which the pharmacist is a part, of a qualifying drug that under section 804(a)(2)(A) was imported by the pharmacist, other than—

''(A) a sale at retail made pursuant to dispensing the drug to a customer of the pharmacist or organization; or

''(B) a sale or trade of the drug to a pharmacy or a wholesaler registered to import drugs under section 804.

''(2) The sale or trade by an individual of a qualifying drug that under section 804(a)(2)(B) was imported by the individual.

''(3) The making of a materially false, fictitious, or fraudulent statement or representation, or a material omission, in a notice under clause (i) of section 804(g)(2)(B) or in an application required under section 804(g)(2)(F), or the failure to submit such a notice or application.

''(4) The importation of a drug in violation of a registration condition or other requirement under section 804, the falsification of any record required to be maintained, or provided to the Secretary, under such section, or the violation of any registration condition or other requirement under such section.''; and

(2) in section 303(a) (21 U.S.C. 333(a)), by striking paragraph (6) and inserting the following:

''(6) Notwithstanding subsection (a), any person that knowingly violates section 301(i)(2) or (3) or section 301(aa)(4) shall be imprisoned not more than 10 years, or fined in accordance with title 18, United States Code, or both.''.

(c) AMENDMENT OF CERTAIN PROVISIONS.—

(1) IN GENERAL.—Section 801 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 381) is amended by striking subsection (g) and inserting the following:

''(g) With respect to a prescription drug that is imported or offered for import into the United States by an individual who is not in the business of such importation, that is not shipped by a registered exporter under section 804, and that is refused admission under subsection (a), the Secretary shall notify the individual that—

''(1) the drug has been refused admission because the drug was not a lawful import under section 804;

''(2) the drug is not otherwise subject to a waiver of the requirements of subsection (a);

''(3) the individual may under section 804 lawfully import certain prescription drugs from exporters registered with the Secretary under section 804; and

''(4) the individual can find information about such importation, including a list of registered exporters, on the Internet website of the Food and Drug Administration or through a toll-free telephone number required under section 804.''.

(2) ESTABLISHMENT REGISTRATION.—Section 510(i) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360(i)) is amended in paragraph (1) by inserting after ''import into the United States'' the following: '', including a drug that is, or may be, imported or offered for import into the United States under section 804,''.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on the date that is 90 days after the date of enactment of this division.

(d) EXHAUSTION.—

(1) IN GENERAL.—Section 271 of title 35, United States Code, is amended—

(A) by redesignating subsections (h) and (i) as (i) and (j), respectively; and

(B) by inserting after subsection (g) the following:

''(h) It shall not be an act of infringement to use, offer to sell, or sell within the United States or to import into the United States any patented invention under section 804 of the Federal Food, Drug, and Cosmetic Act that was first sold abroad by or under authority of the owner or licensee of such patent.''.

(2) RULE OF CONSTRUCTION.—Nothing in the amendment made by paragraph (1) shall be construed to affect the ability of a patent owner or licensee to enforce their patent, subject to such amendment.

(e) EFFECT OF SECTION 804.—

(1) IN GENERAL.—Section 804 of the Federal Food, Drug, and Cosmetic Act, as added by subsection (a), shall permit the importation of qualifying drugs (as defined in such section 804) into the United States without regard to the status of the issuance of implementing regulations—

(A) from exporters registered under such section 804 on the date that is 90 days after the date of enactment of this division; and

(B) from permitted countries, as defined in such section 804, by importers registered under such section 804 on the date that is 1 year after the date of enactment of this division.

(2) REVIEW OF REGISTRATION BY CERTAIN EXPORTERS.—

(A) REVIEW PRIORITY.—In the review of registrations submitted under subsection (b) of such section 804, registrations submitted by entities in Canada that are significant exporters of prescription drugs to individuals in the United States as of the date of enactment of this division will have priority during the 90 day period that begins on such date of enactment.

(B) PERIOD FOR REVIEW.—During such 90-day period, the reference in subsection (b)(2)(A) of such section 804 to 90 days (relating to approval or disapproval of registrations) is, as applied to such entities, deemed to be 30 days.

(C) LIMITATION.—That an exporter in Canada exports, or has exported, prescription drugs to individuals in the United States on or before the date that is 90 days after the date of enactment of this division shall not serve as a basis, in whole or in part, for disapproving a registration under such section 804 from the exporter.

(D) FIRST YEAR LIMIT ON NUMBER OF EXPORTERS.—During the 1-year period beginning on the date of enactment of this division, the Secretary of Health and Human Services (referred to in this section as the ''Secretary'') may limit the number of registered exporters under such section 804 to not less than 50, so long as the Secretary gives priority to those exporters with demonstrated ability to process a high volume of shipments of drugs to individuals in the United States.

(E) SECOND YEAR LIMIT ON NUMBER OF EXPORTERS.—During the 1-year period beginning on the date that is 1 year after the date of enactment of this division, the Secretary may limit the number of registered exporters under such section 804 to not less than 100, so long as the Secretary gives priority to those exporters with demonstrated ability to process a high volume of shipments of drugs to individuals in the United States.

(F) FURTHER LIMIT ON NUMBER OF EXPORTERS.—During any 1-year period beginning on a date that is 2 or more years after the date of enactment of this division, the Secretary may limit the number of registered exporters under such section 804 to not less than 25 more than the number of such exporters during the previous 1-year period, so long as the Secretary gives priority to those exporters with demonstrated ability to process a high volume of shipments of drugs to individuals in the United States.

(3) LIMITS ON NUMBER OF IMPORTERS.—

(A) FIRST YEAR LIMIT ON NUMBER OF IMPORTERS.—During the 1-year period beginning on the date that is 1 year after the date of enactment of this division, the Secretary may limit the number of registered importers under such section 804 to not less than 100 (of which at least a significant number shall be groups of pharmacies, to the extent feasible given the applications submitted by such groups), so long as the Secretary gives priority to those importers with demonstrated ability to process a high volume of shipments of drugs imported into the United States.

(B) SECOND YEAR LIMIT ON NUMBER OF IMPORTERS.—During the 1-year period beginning on the date that is 2 years after the date of enactment of this division, the Secretary may limit the number of registered importers under such section 804 to not less than 200 (of which at least a significant number shall be groups of pharmacies, to the extent feasible given the applications submitted by such groups), so long as the Secretary gives priority to those importers with demonstrated ability to process a high volume of shipments of drugs into the United States.

(C) FURTHER LIMIT ON NUMBER OF IMPORTERS.—During any 1-year period beginning on a date that is 3 or more years after the date of enactment of this division, the Secretary may limit the number of registered importers under such section 804 to not less than 50 more (of which at least a significant number shall be groups of pharmacies, to the extent feasible given the applications submitted by such groups) than the number of such importers during the previous 1-year period, so long as the Secretary gives priority to those importers with demonstrated ability to process a high volume of shipments of drugs to the United States.

(4) NOTICES FOR DRUGS FOR IMPORT FROM CANADA.—The notice with respect to a qualifying drug introduced for commercial distribution in Canada as of the date of enactment of this division that is required under subsection (g)(2)(B)(i) of such section 804 shall be submitted to the Secretary not later than 30 days after the date of enactment of this division if—

(A) the U.S. label drug (as defined in such section 804) for the qualifying drug is 1 of the 100 prescription drugs with the highest dollar volume of sales in the United States based on the 12 calendar month period most recently completed before the date of enactment of this division; or

(B) the notice is a notice under subsection (g)(2)(B)(i)(II) of such section 804.

(5) NOTICE FOR DRUGS FOR IMPORT FROM OTHER COUNTRIES.—The notice with respect to a qualifying drug introduced for commercial distribution in a permitted country other than Canada as of the date of enactment of this division that is required under subsection (g)(2)(B)(i) of such section 804 shall be submitted to the Secretary not later than 180 days after the date of enactment of this division if—

(A) the U.S. label drug for the qualifying drug is 1 of the 100 prescription drugs with the highest dollar volume of sales in the United States based on the 12 calendar month period that is first completed on the date that is 120 days after the date of enactment of this division; or

(B) the notice is a notice under subsection (g)(2)(B)(i)(II) of such section 804.

(6) NOTICE FOR OTHER DRUGS FOR IMPORT.—

(A) GUIDANCE ON SUBMISSION DATES.—The Secretary shall by guidance establish a series of submission dates for the notices under subsection (g)(2)(B)(i) of such section 804 with respect to qualifying drugs introduced for commercial distribution as of the date of enactment of this division and that are not required to be submitted under paragraph (4) or (5).

(B) CONSISTENT AND EFFICIENT USE OF RESOURCES.—The Secretary shall establish the dates described under subparagraph (A) so that such notices described under subparagraph (A) are submitted and reviewed at a rate that allows consistent and efficient use of the resources and staff available to the Secretary for such reviews. The Secretary may condition the requirement to submit such a notice, and the review of such a notice, on the submission by a registered exporter or a registered importer to the Secretary of a notice that such exporter or importer intends to import such qualifying drug to the United States under such section 804.

(C) PRIORITY FOR DRUGS WITH HIGHER SALES.—The Secretary shall establish the dates described under subparagraph (A) so that the Secretary reviews the notices described under such subparagraph with respect to qualifying drugs with higher dollar volume of sales in the United States before the notices with respect to drugs with lower sales in the United States.

(7) NOTICES FOR DRUGS APPROVED AFTER EFFECTIVE DATE.—The notice required under subsection (g)(2)(B)(i) of such section 804 for a qualifying drug first introduced for commercial distribution in a permitted country (as defined in such section 804) after the date of enactment of this division shall be submitted to and reviewed by the Secretary as provided under subsection (g)(2)(B) of such section 804, without regard to paragraph (4), (5), or (6).

(8) REPORT.—Beginning with the first full fiscal year after the date of enactment of this division, not later than 90 days after the end of each fiscal year during which the Secretary reviews a notice referred to in paragraph (4), (5), or (6), the Secretary shall submit a report to Congress concerning the progress of the Food and Drug Administration in reviewing the notices referred to in paragraphs (4), (5), and (6).

(9) USER FEES.—

(A) EXPORTERS.—When establishing an aggregate total of fees to be collected from exporters under subsection (f)(2) of such section 804, the Secretary shall, under subsection (f)(3)(C)(i) of such section 804, estimate the total price of drugs imported under subsection (a) of such section 804 into the United States by registered exporters during the first fiscal year in which this division takes effect to be an amount equal to the amount which bears the same ratio to $1,000,000,000 as the number of days in such fiscal year during which this division is effective bears to 365.

(B) IMPORTERS.—When establishing an aggregate total of fees to be collected from importers under subsection (e)(2) of such section 804, the Secretary shall, under subsection (e)(3)(C)(i) of such section 804, estimate the total price of drugs imported under subsection (a) of such section 804 into the United States by registered importers during—

(i) the first fiscal year in which this division takes effect to be an amount equal to the amount which bears the same ratio to $1,000,000,000 as the number of days in such fiscal year during which this division is effective bears to 365; and

(ii) the second fiscal year in which this division is in effect to be $3,000,000,000.

(C) SECOND YEAR ADJUSTMENT.—

(i) REPORTS.—Not later than February 20 of the second fiscal year in which this division is in effect, registered importers shall report to the Secretary the total price and the total volume of drugs imported to the United States by the importer during the 4-month period from October 1 through January 31 of such fiscal year.

(ii) REESTIMATE.—Notwithstanding subsection (e)(3)(C)(ii) of such section 804 or subparagraph (B), the Secretary shall reestimate the total price of qualifying drugs imported under subsection (a) of such section 804 into the United States by registered importers during the second fiscal year in which this division is in effect. Such reestimate shall be equal to—

(I) the total price of qualifying drugs imported by each importer as reported under clause (i); multiplied by

(II) 3.

(iii) ADJUSTMENT.—The Secretary shall adjust the fee due on April 1 of the second fiscal year in which this division is in effect, from each importer so that the aggregate total of fees collected under subsection (e)(2) for such fiscal year does not exceed the total price of qualifying drugs imported under subsection (a) of such section 804 into the United States by registered importers during such fiscal year as reestimated under clause (ii).

(D) FAILURE TO PAY FEES.—Notwithstanding any other provision of this section, the Secretary may prohibit a registered importer or exporter that is required to pay user fees under subsection (e) or (f) of such section 804 and that fails to pay such fees within 30 days after the date on which it is due, from importing or offering for importation a qualifying drug under such section 804 until such fee is paid.

(E) ANNUAL REPORT.—

(i) FOOD AND DRUG ADMINISTRATION.—Not later than 180 days after the end of each fiscal year during which fees are collected under subsection (e), (f), or (g)(2)(B)(iv) of such section 804, the Secretary shall prepare and submit to the House of Representatives and the Senate a report on the implementation of the authority for such fees during such fiscal year and the use, by the Food and Drug Administration, of the fees collected for the fiscal year for which the report is made and credited to the Food and Drug Administration.

(ii) CUSTOMS AND BORDER CONTROL.—Not later than 180 days after the end of each fiscal year during which fees are collected under subsection (e) or (f) of such section 804, the Secretary of Homeland Security, in consultation with the Secretary of the Treasury, shall prepare and submit to the House of Representatives and the Senate a report on the use, by the Bureau of Customs and Border Protection, of the fees, if any, transferred by the Secretary to the Bureau of Customs and Border Protection for the fiscal year for which the report is made.

(10) SPECIAL RULE REGARDING IMPORTATION BY INDIVIDUALS.—

(A) IN GENERAL.—Notwithstanding any provision of this division (or an amendment made by this division), the Secretary shall expedite the designation of any additional countries from which an individual may import a qualifying drug into the United States under such section 804 if any action implemented by the Government of Canada has the effect of limiting or prohibiting the importation of qualifying drugs into the United States from Canada.

(B) TIMING AND CRITERIA.—The Secretary shall designate such additional countries under subparagraph (A)—

(i) not later than 6 months after the date of the action by the Government of Canada described under such subparagraph; and

(ii) using the criteria described under subsection (a)(4)(D)(i)(II) of such section 804.

(f) IMPLEMENTATION OF SECTION 804.—

(1) INTERIM RULE.—The Secretary may promulgate an interim rule for implementing section 804 of the Federal Food, Drug, and Cosmetic Act, as added by subsection (a) of this section.

(2) NO NOTICE OF PROPOSED RULEMAKING.—The interim rule described under paragraph (1) may be developed and promulgated by the Secretary without providing general notice of proposed rulemaking.

(3) FINAL RULE.—Not later than 1 year after the date on which the Secretary promulgates an interim rule under paragraph (1), the Secretary shall, in accordance with procedures under section 553 of title 5, United States Code, promulgate a final rule for implementing such section 804, which may incorporate by reference provisions of the interim rule provided for under paragraph (1), to the extent that such provisions are not modified.

(g) CONSUMER EDUCATION.—The Secretary shall carry out activities that educate consumers—

(1) with regard to the availability of qualifying drugs for import for personal use from an exporter registered with and approved by the Food and Drug Administration under section 804 of the Federal Food, Drug, and Cosmetic Act, as added by this section, including information on how to verify whether an exporter is registered and approved by use of the Internet website of the Food and Drug Administration and the toll-free telephone number required by this division;

(2) that drugs that consumers attempt to import from an exporter that is not registered with and approved by the Food and Drug Administration can be seized by the United States Customs Service and destroyed, and that such drugs may be counterfeit, unapproved, unsafe, or ineffective;

(3) with regard to the suspension and termination of any registration of a registered importer or exporter under such section 804; and

(4) with regard to the availability at domestic retail pharmacies of qualifying drugs imported under such section 804 by domestic wholesalers and pharmacies registered with and approved by the Food and Drug Administration.

(h) EFFECT ON ADMINISTRATION PRACTICES.—Notwithstanding any provision of this division (and the amendments made by this division), the practices and policies of the Food and Drug Administration and Bureau of Customs and Border Protection, in effect on January 1, 2004, with respect to the importation of prescription drugs into the United States by an individual, on the person of such individual, for personal use, shall remain in effect.

(i) REPORT TO CONGRESS.—The Federal Trade Commission shall, on an annual basis, submit to Congress a report that describes any action taken during the period for which the report is being prepared to enforce the provisions of section 804(n) of the Federal Food, Drug, and Cosmetic Act (as added by this division), including any pending investigations or civil actions under such section.

SEC. 5. DISPOSITION OF CERTAIN DRUGS DENIED ADMISSION INTO UNITED STATES.

(a) IN GENERAL.—Chapter VIII of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 381 et seq.), as amended by section 4, is further amended by adding at the end the following section:

"SEC. 805. DISPOSITION OF CERTAIN DRUGS DENIED ADMISSION.

''(a) IN GENERAL.—The Secretary of Homeland Security shall deliver to the Secretary a shipment of drugs that is imported or offered for import into the United States if—

''(1) the shipment has a declared value of less than $10,000; and

''(2)(A) the shipping container for such drugs does not bear the markings required under section 804(d)(2); or

''(B) the Secretary has requested delivery of such shipment of drugs.

''(b) NO BOND OR EXPORT.—Section 801(b) does not authorize the delivery to the owner or consignee of drugs delivered to the Secretary under subsection (a) pursuant to the execution of a bond, and such drugs may not be exported.

''(c) DESTRUCTION OF VIOLATIVE SHIPMENT.—The Secretary shall destroy a shipment of drugs delivered by the Secretary of Homeland Security to the Secretary under subsection (a) if—

''(1) in the case of drugs that are imported or offered for import from a registered exporter under section 804, the drugs are in violation of any standard described in section 804(g)(5); or

''(2) in the case of drugs that are not imported or offered for import from a registered exporter under section 804, the drugs are in violation of a standard referred to in section 801(a) or 801(d)(1).

''(d) CERTAIN PROCEDURES.—

''(1) IN GENERAL.—The delivery and destruction of drugs under this section may be carried out without notice to the importer, owner, or consignee of the drugs except as required by section 801(g) or section 804(i)(2). The issuance of receipts for the drugs, and recordkeeping activities regarding the drugs, may be carried out on a summary basis.

''(2) OBJECTIVE OF PROCEDURES.—Procedures promulgated under paragraph (1) shall be designed toward the objective of ensuring that, with respect to efficiently utilizing Federal resources available for carrying out this section, a substantial majority of shipments of drugs subject to described in subsection (c) are identified and destroyed.

''(e) EVIDENCE EXCEPTION.—Drugs may not be destroyed under subsection (c) to the extent that the Attorney General of the United States determines that the drugs should be preserved as evidence or potential evidence with respect to an offense against the United States.

''(f) RULE OF CONSTRUCTION.—This section may not be construed as having any legal effect on applicable law with respect to a shipment of drugs that is imported or offered for import into the United States and has a declared value equal to or greater than $10,000.''.

(b) PROCEDURES.—Procedures for carrying out section 805 of the Federal Food, Drug, and Cosmetic Act, as added by subsection (a), shall be established not later than 90 days after the date of the enactment of this division.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date that is 90 days after the date of enactment of this division.

SEC. 6. WHOLESALE DISTRIBUTION OF DRUGS; STATEMENTS REGARDING PRIOR SALE, PURCHASE, OR TRADE.

(a) STRIKING OF EXEMPTIONS; APPLICABILITY TO REGISTERED EXPORTERS.—Section 503(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 353(e)) is amended—

(1) in paragraph (1)—

(A) by striking ''and who is not the manufacturer or an authorized distributor of record of such drug'';

(B) by striking ''to an authorized distributor of record or''; and

(C) by striking subparagraph (B) and inserting the following:

''(B) The fact that a drug subject to subsection (b) is exported from the United States does not with respect to such drug exempt any person that is engaged in the business of the wholesale distribution of the drug from providing the statement described in subparagraph (A) to the person that receives the drug pursuant to the export of the drug.

''(C)(i) The Secretary shall by regulation establish requirements that supersede subparagraph (A) (referred to in this subparagraph as 'alternative requirements') to identify the chain of custody of a drug subject to subsection (b) from the manufacturer of the drug throughout the wholesale distribution of the drug to a pharmacist who intends to sell the drug at retail if the Secretary determines that the alternative requirements, which may include standardized anti-counterfeiting or track-and-trace technologies, will identify such chain of custody or the identity of the discrete package of the drug from which the drug is dispensed with equal or greater certainty to the requirements of subparagraph (A), and that the alternative requirements are economically and technically feasible.

''(ii) When the Secretary promulgates a final rule to establish such alternative requirements, the final rule in addition shall, with respect to the registration condition established in clause (i) of section 804(c)(3)(B), establish a condition equivalent to the alternative requirements, and such equivalent condition may be met in lieu of the registration condition established in such clause (i).'';

(2) in paragraph (2)(A), by adding at the end the following: ''The preceding sentence may not be construed as having any applicability with respect to a registered exporter under section 804.''; and

(3) in paragraph (3), by striking ''and subsection (d)—'' in the matter preceding subparagraph (A) and all that follows through ''the term 'wholesale distribution' means'' in subparagraph (B) and inserting the following: ''and subsection (d), the term 'wholesale distribution' means''.

(b) CONFORMING AMENDMENT.—Section 503(d) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 353(d)) is amended by adding at the end the following:

''(4) Each manufacturer of a drug subject to subsection (b) shall maintain at its corporate offices a current list of the authorized distributors of record of such drug.

''(5) For purposes of this subsection, the term 'authorized distributors of record' means those distributors with whom a manufacturer has established an ongoing relationship to distribute such manufacturer's products.''.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by paragraphs (1) and (3) of subsection (a) and by subsection (b) shall take effect on January 1, 2012.

(2) DRUGS IMPORTED BY REGISTERED IMPORTERS UNDER SECTION 804.—Notwithstanding paragraph (1), the amendments made by paragraphs (1) and (3) of subsection (a) and by subsection (b) shall take effect on the date that is 90 days after the date of enactment of this division with respect to qualifying drugs imported under section 804 of the Federal Food, Drug, and Cosmetic Act, as added by section 4.

(3) EFFECT WITH RESPECT TO REGISTERED EXPORTERS.—The amendment made by subsection (a)(2) shall take effect on the date that is 90 days after the date of enactment of this division.

(4) ALTERNATIVE REQUIREMENTS.—The Secretary shall issue regulations to establish the alternative requirements, referred to in the amendment made by subsection (a)(1), that take effect not later than January 1, 2012.

(5) INTERMEDIATE REQUIREMENTS.—The Secretary shall by regulation require the use of standardized anti-counterfeiting or track-and-trace technologies on prescription drugs at the case and pallet level effective not later than 1 year after the date of enactment of this division.

(6) ADDITIONAL REQUIREMENTS.—

(A) IN GENERAL.—Notwithstanding any other provision of this section, the Secretary shall, not later than 18 months after the date of enactment of this division, require that the packaging of any prescription drug incorporates—

(i) a standardized numerical identifier unique to each package of such drug, applied at the point of manufacturing and repackaging (in which case the numerical identifier shall be linked to the numerical identifier applied at the point of manufacturing); and

(ii)(I) overt optically variable counterfeit-resistant technologies that—

(aa) are visible to the naked eye, providing for visual identification of product authenticity without the need for readers, microscopes, lighting devices, or scanners;

(bb) are similar to that used by the Bureau of Engraving and Printing to secure United States currency;

(cc) are manufactured and distributed in a highly secure, tightly controlled environment; and

(dd) incorporate additional layers of nonvisible convert security features up to and including forensic capability, as described in subparagraph (B); or

(II) technologies that have a function of security comparable to that described in subclause (I), as determined by the Secretary.

(B) STANDARDS FOR PACKAGING.—For the purpose of making it more difficult to counterfeit the packaging of drugs subject to this paragraph, the manufacturers of such drugs shall incorporate the technologies described in subparagraph (A) into at least 1 additional element of the physical packaging of the drugs, including blister packs, shrink wrap, package labels, package seals, bottles, and boxes.

SEC. 7. INTERNET SALES OF PRESCRIPTION DRUGS.

(a) IN GENERAL.—Chapter V of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 351 et seq.) is amended by inserting after section 503B the following:

''SEC. 503C. INTERNET SALES OF PRESCRIPTION DRUGS.

''(a) REQUIREMENTS REGARDING INFORMATION ON INTERNET SITE.—

''(1) IN GENERAL.—A person may not dispense a prescription drug pursuant to a sale of the drug by such person if—

''(A) the purchaser of the drug submitted the purchase order for the drug, or conducted any other part of the sales transaction for the drug, through an Internet site;

''(B) the person dispenses the drug to the purchaser by mailing or shipping the drug to the purchaser; and

''(C) such site, or any other Internet site used by such person for purposes of sales of a prescription drug, fails to meet each of the requirements specified in paragraph (2), other than a site or pages on a site that—

''(i) are not intended to be accessed by purchasers or prospective purchasers; or

''(ii) provide an Internet information location tool within the meaning of section 231(e)(5) of the Communications Act of 1934 (47 U.S.C. 231(e)(5)).

''(2) REQUIREMENTS.—With respect to an Internet site, the requirements referred to in subparagraph (C) of paragraph (1) for a person to whom such paragraph applies are as follows:

''(A) Each page of the site shall include either the following information or a link to a page that provides the following information:

''(i) The name of such person.

''(ii) Each State in which the person is authorized by law to dispense prescription drugs.

''(iii) The address and telephone number of each place of business of the person with respect to sales of prescription drugs through the Internet, other than a place of business that does not mail or ship prescription drugs to purchasers.

''(iv) The name of each individual who serves as a pharmacist for prescription drugs that are mailed or shipped pursuant to the site, and each State in which the individual is authorized by law to dispense prescription drugs.

''(v) If the person provides for medical consultations through the site for purposes of providing prescriptions, the name of each individual who provides such consultations; each State in which the individual is licensed or otherwise authorized by law to provide such consultations or practice medicine; and the type or types of health professions for which the individual holds such licenses or other authorizations.

''(B) A link to which paragraph (1) applies shall be displayed in a clear and prominent place and manner, and shall include in the caption for the link the words 'licensing and contact information'.

''(b) INTERNET SALES WITHOUT APPROPRIATE MEDICAL RELATIONSHIPS.—

''(1) IN GENERAL.—Except as provided in paragraph (2), a person may not dispense a prescription drug, or sell such a drug, if—

''(A) for purposes of such dispensing or sale, the purchaser communicated with the person through the Internet;

''(B) the patient for whom the drug was dispensed or purchased did not, when such communications began, have a prescription for the drug that is valid in the United States;

''(C) pursuant to such communications, the person provided for the involvement of a practitioner, or an individual represented by the person as a practitioner, and the practitioner or such individual issued a prescription for the drug that was purchased;

''(D) the person knew, or had reason to know, that the practitioner or the individual referred to in subparagraph (C) did not, when issuing the prescription, have a qualifying medical relationship with the patient; and

''(E) the person received payment for the dispensing or sale of the drug.

For purposes of subparagraph (E), payment is received if money or other valuable consideration is received.

''(2) EXCEPTIONS.—Paragraph (1) does not apply to—

''(A) the dispensing or selling of a prescription drug pursuant to telemedicine practices sponsored by—

''(i) a hospital that has in effect a provider agreement under title XVIII of the Social Security Act (relating to the Medicare program); or

''(ii) a group practice that has not fewer than 100 physicians who have in effect provider agreements under such title; or

''(B) the dispensing or selling of a prescription drug pursuant to practices that promote the public health, as determined by the Secretary by regulation.

''(3) QUALIFYING MEDICAL RELATIONSHIP.—

''(A) IN GENERAL.—With respect to issuing a prescription for a drug for a patient, a practitioner has a qualifying medical relationship with the patient for purposes of this section if—

''(i) at least one in-person medical evaluation of the patient has been conducted by the practitioner; or

''(ii) the practitioner conducts a medical evaluation of the patient as a covering practitioner.

''(B) IN-PERSON MEDICAL EVALUATION.—A medical evaluation by a practitioner is an in-person medical evaluation for purposes of this section if the practitioner is in the physical presence of the patient as part of conducting the evaluation, without regard to whether portions of the evaluation are conducted by other health professionals.

''(C) COVERING PRACTITIONER.—With respect to a patient, a practitioner is a covering practitioner for purposes of this section if the practitioner conducts a medical evaluation of the patient at the request of a practitioner who has conducted at least one in-person medical evaluation of the patient and is temporarily unavailable to conduct the evaluation of the patient. A practitioner is a covering practitioner without regard to whether the practitioner has conducted any in-person medical evaluation of the patient involved.

''(4) RULES OF CONSTRUCTION.—

''(A) INDIVIDUALS REPRESENTED AS PRACTITIONERS.—A person who is not a practitioner (as defined in subsection (e)(1)) lacks legal capacity under this section to have a qualifying medical relationship with any patient.

''(B) STANDARD PRACTICE OF PHARMACY.—Paragraph (1) may not be construed as prohibiting any conduct that is a standard practice in the practice of pharmacy.

''(C) APPLICABILITY OF REQUIREMENTS.—Paragraph (3) may not be construed as having any applicability beyond this section, and does not affect any State law, or interpretation of State law, concerning the practice of medicine.

''(c) ACTIONS BY STATES.—

''(1) IN GENERAL.—Whenever an attorney general of any State has reason to believe that the interests of the residents of that State have been or are being threatened or adversely affected because any person has engaged or is engaging in a pattern or practice that violates section 301(l), the State may bring a civil action on behalf of its residents in an appropriate district court of the United States to enjoin such practice, to enforce compliance with such section (including a nationwide injunction), to obtain damages, restitution, or other compensation on behalf of residents of such State, to obtain reasonable attorneys fees and costs if the State prevails in the civil action, or to obtain such further and other relief as the court may deem appropriate.

''(2) NOTICE.—The State shall serve prior written notice of any civil action under paragraph (1) or (5)(B) upon the Secretary and provide the Secretary with a copy of its complaint, except that if it is not feasible for the State to provide such prior notice, the State shall serve such notice immediately upon instituting such action. Upon receiving a notice respecting a civil action, the Secretary shall have the right—

''(A) to intervene in such action;

''(B) upon so intervening, to be heard on all matters arising therein; and

''(C) to file petitions for appeal.

''(3) CONSTRUCTION.—For purposes of bringing any civil action under paragraph (1), nothing in this chapter shall prevent an attorney general of a State from exercising the powers conferred on the attorney general by the laws of such State to conduct investigations or to administer oaths or affirmations or to compel the attendance of witnesses or the production of documentary and other evidence.

''(4) VENUE; SERVICE OF PROCESS.—Any civil action brought under paragraph (1) in a district court of the United States may be brought in the district in which the defendant is found, is an inhabitant, or transacts business or wherever venue is proper under section 1391 of title 28, United States Code. Process in such an action may be served in any district in which the defendant is an inhabitant or in which the defendant may be found.

''(5) ACTIONS BY OTHER STATE OFFICIALS.—

''(A) Nothing contained in this section shall prohibit an authorized State official from proceeding in State court on the basis of an alleged violation of any civil or criminal statute of such State.

''(B) In addition to actions brought by an attorney general of a State under paragraph (1), such an action may be brought by officers of such State who are authorized by the State to bring actions in such State on behalf of its residents.

''(d) EFFECT OF SECTION.—This section shall not apply to a person that is a registered exporter under section 804.

''(e) GENERAL DEFINITIONS.—For purposes of this section:

''(1) The term 'practitioner' means a practitioner referred to in section 503(b)(1) with respect to issuing a written or oral prescription.

''(2) The term 'prescription drug' means a drug that is described in section 503(b)(1).

''(3) The term 'qualifying medical relationship', with respect to a practitioner and a patient, has the meaning indicated for such term in subsection (b).

''(f) INTERNET-RELATED DEFINITIONS.—

''(1) IN GENERAL.—For purposes of this section:

''(A) The term 'Internet' means collectively the myriad of computer and telecommunications facilities, including equipment and operating software, which comprise the interconnected world-wide network of networks that employ the transmission control protocol/internet protocol, or any predecessor or successor protocols to such protocol, to communicate information of all kinds by wire or radio.

''(B) The term 'link', with respect to the Internet, means one or more letters, words, numbers, symbols, or graphic items that appear on a page of an Internet site for the purpose of serving, when activated, as a method for executing an electronic command—

''(i) to move from viewing one portion of a page on such site to another portion of the page;

''(ii) to move from viewing one page on such site to another page on such site; or

''(iii) to move from viewing a page on one Internet site to a page on another Internet site.

''(C) The term 'page', with respect to the Internet, means a document or other file accessed at an Internet site.

''(D)(i) The terms 'site' and 'address', with respect to the Internet, mean a specific location on the Internet that is determined by Internet Protocol numbers. Such term includes the domain name, if any.

''(ii) The term 'domain name' means a method of representing an Internet address without direct reference to the Internet Protocol numbers for the address, including methods that use designations such as '.com', '.edu', '.gov', '.net', or '.org'.

''(iii) The term 'Internet Protocol numbers' includes any successor protocol for determining a specific location on the Internet.

''(2) AUTHORITY OF SECRETARY.—The Secretary may by regulation modify any definition under paragraph (1) to take into account changes in technology.

''(g) INTERACTIVE COMPUTER SERVICE; ADVERTISING.—No provider of an interactive computer service, as defined in section 230(f)(2) of the Communications Act of 1934 (47 U.S.C. 230(f)(2)), or of advertising services shall be liable under this section for dispensing or selling prescription drugs in violation of this section on account of another person's selling or dispensing such drugs, provided that the provider of the interactive computer service or of advertising services does not own or exercise corporate control over such person.''.

(b) INCLUSION AS PROHIBITED ACT.—Section 301 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 331) is amended by inserting after paragraph (k) the following:

''(l) The dispensing or selling of a prescription drug in violation of section 503C.''.

(c) INTERNET SALES OF PRESCRIPTION DRUGS; CONSIDERATION BY SECRETARY OF PRACTICES AND PROCEDURES FOR CERTIFICATION OF LEGITIMATE BUSINESSES.—In carrying out section 503C of the Federal Food, Drug, and Cosmetic Act (as added by subsection (a) of this section), the Secretary of Health and Human Services shall take into consideration the practices and procedures of public or private entities that certify that businesses selling prescription drugs through Internet sites are legitimate businesses, including practices and procedures regarding disclosure formats and verification programs.

(d) REPORTS REGARDING INTERNET-RELATED VIOLATIONS OF FEDERAL AND STATE LAWS ON DISPENSING OF DRUGS.—

(1) IN GENERAL.—The Secretary of Health and Human Services (referred to in this subsection as the ''Secretary'') shall, pursuant to the submission of an application meeting the criteria of the Secretary, make an award of a grant or contract to the National Clearinghouse on Internet Prescribing (operated by the Federation of State Medical Boards) for the purpose of—

(A) identifying Internet sites that appear to be in violation of Federal or State laws concerning the dispensing of drugs;

(B) reporting such sites to State medical licensing boards and State pharmacy licensing boards, and to the Attorney General and the Secretary, for further investigation; and

(C) submitting, for each fiscal year for which the award under this subsection is made, a report to the Secretary describing investigations undertaken with respect to violations described in subparagraph (A).

(2) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out paragraph (1), there is authorized to be appropriated $100,000 for each of the first 3 fiscal years in which this section is in effect.

(e) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) take effect 90 days after the date of enactment of this division, without regard to whether a final rule to implement such amendments has been promulgated by the Secretary of Health and Human Services under section 701(a) of the Federal Food, Drug, and Cosmetic Act. The preceding sentence may not be construed as affecting the authority of such Secretary to promulgate such a final rule.

SEC. 8. PROHIBITING PAYMENTS TO UNREGISTERED FOREIGN PHARMACIES.

(a) IN GENERAL.—Section 303 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 333)

is amended by adding at the end the following:

''(h) RESTRICTED TRANSACTIONS.—

''(1) IN GENERAL.—The introduction of restricted transactions into a payment system or the completion of restricted transactions using a payment system is prohibited.

''(2) PAYMENT SYSTEM.—

''(A) IN GENERAL.—The term 'payment system' means a system used by a person described in subparagraph (B) to effect a credit transaction, electronic fund transfer, or money transmitting service that may be used in connection with, or to facilitate, a restricted transaction, and includes—

''(i) a credit card system;

''(ii) an international, national, regional, or local network used to effect a credit transaction, an electronic fund transfer, or a money transmitting service; and

''(iii) any other system that is centrally managed and is primarily engaged in the transmission and settlement of credit transactions, electronic fund transfers, or money transmitting services.

''(B) PERSONS DESCRIBED.—A person referred to in subparagraph (A) is—

''(i) a creditor;

''(ii) a credit card issuer;

''(iii) a financial institution;

''(iv) an operator of a terminal at which an electronic fund transfer may be initiated;

''(v) a money transmitting business; or

''(vi) a participant in an international, national, regional, or local network used to effect a credit transaction, electronic fund transfer, or money transmitting service.

''(3) RESTRICTED TRANSACTION.—The term 'restricted transaction' means a transaction or transmittal, on behalf of an individual who places an unlawful drug importation request to any person engaged in the operation of an unregistered foreign pharmacy, of—

''(A) credit, or the proceeds of credit, extended to or on behalf of the individual for the purpose of the unlawful drug importation request (including credit extended through the use of a credit card);

''(B) an electronic fund transfer or funds transmitted by or through a money transmitting business, or the proceeds of an electronic fund transfer or money transmitting service, from or on behalf of the individual for the purpose of the unlawful drug importation request;

''(C) a check, draft, or similar instrument which is drawn by or on behalf of the individual for the purpose of the unlawful drug importation request and is drawn on or payable at or through any financial institution; or

''(D) the proceeds of any other form of financial transaction (identified by the Board by regulation) that involves a financial institution as a payor or financial intermediary on behalf of or for the benefit of the individual for the purpose of the unlawful drug importation request.

''(4) UNLAWFUL DRUG IMPORTATION REQUEST.—The term 'unlawful drug importation request' means the request, or transmittal of a request, made to an unregistered foreign pharmacy for a prescription drug by mail (including a private carrier), facsimile, phone, or electronic mail, or by a means that involves the use, in whole or in part, of the Internet.

''(5) UNREGISTERED FOREIGN PHARMACY.—The term 'unregistered foreign pharmacy' means a person in a country other than the United States that is not a registered exporter under section 804.

''(6) OTHER DEFINITIONS.—

''(A) CREDIT; CREDITOR; CREDIT CARD.—The terms 'credit', 'creditor', and 'credit card' have the meanings given the terms in section 103 of the Truth in Lending Act (15 U.S.C. 1602).

''(B) ACCESS DEVICE; ELECTRONIC FUND TRANSFER.—The terms 'access device' and 'electronic fund transfer'—

''(i) have the meaning given the term in section 903 of the Electronic Fund Transfer Act (15 U.S.C. 1693a); and

''(ii) the term 'electronic fund transfer' also includes any fund transfer covered under Article 4A of the Uniform Commercial Code, as in effect in any State.

''(C) FINANCIAL INSTITUTION.—The term 'financial institution'—

''(i) has the meaning given the term in section 903 of the Electronic Transfer Fund Act (15 U.S.C. 1693a); and

''(ii) includes a financial institution (as defined in section 509 of the Gramm-Leach-Bliley Act (15 U.S.C. 6809)).

''(D) MONEY TRANSMITTING BUSINESS; MONEY TRANSMITTING SERVICE.—The terms 'money transmitting business' and 'money transmitting service' have the meaning given the terms in section 5330(d) of title 31, United States Code.

''(E) BOARD.—The term 'Board' means the Board of Governors of the Federal Reserve System.

''(7) POLICIES AND PROCEDURES REQUIRED TO PREVENT RESTRICTED TRANSACTIONS.—

''(A) REGULATIONS.—The Board shall promulgate regulations requiring—

''(i) an operator of a credit card system;

''(ii) an operator of an international, national, regional, or local network used to effect a credit transaction, an electronic fund transfer, or a money transmitting service;

''(iii) an operator of any other payment system that is centrally managed and is primarily engaged in the transmission and settlement of credit transactions, electronic transfers or money transmitting services where at least one party to the transaction or transfer is an individual; and

''(iv) any other person described in paragraph (2)(B) and specified by the Board in such regulations,

to establish policies and procedures that are reasonably designed to prevent the introduction of a restricted transaction into a payment system or the completion of a restricted transaction using a payment system

''(B) REQUIREMENTS FOR POLICIES AND PROCEDURES.—In promulgating regulations under subparagraph (A), the Board shall—

''(i) identify types of policies and procedures, including nonexclusive examples, that shall be considered to be reasonably designed to prevent the introduction of restricted transactions into a payment system or the completion of restricted transactions using a payment system; and

''(ii) to the extent practicable, permit any payment system, or person described in paragraph (2)(B), as applicable, to choose among alternative means of preventing the introduction or completion of restricted transactions.

''(C) NO LIABILITY FOR BLOCKING OR REFUSING TO HONOR RESTRICTED TRANSACTION.—

''(i) IN GENERAL.—A payment system, or a person described in paragraph (2)(B) that is subject to a regulation issued under this subsection, and any participant in such payment system that prevents or otherwise refuses to honor transactions in an effort to implement the policies and procedures required under this subsection or to otherwise comply with this subsection shall not be liable to any party for such action.

''(ii) COMPLIANCE.—A person described in paragraph (2)(B) meets the requirements of this subsection if the person relies on and complies with the policies and procedures of a payment system of which the person is a member or in which the person is a participant, and such policies and procedures of the payment system comply with the requirements of the regulations promulgated under subparagraph (A).

''(D) ENFORCEMENT.—

''(i) IN GENERAL.—This section shall be enforced by the Federal functional regulators and the Federal Trade Commission under applicable law in the manner provided in section 505(a) of the Gramm-Leach-Bliley Act (15 U.S.C. 6805(a)).

''(ii) FACTORS TO BE CONSIDERED.—In considering any enforcement action under this subsection against a payment system or person described in paragraph (2)(B), the Federal functional regulators and the Federal Trade Commission shall consider the following factors:

''(I) The extent to which the payment system or person knowingly permits restricted transactions.

''(II) The history of the payment system or person in connection with permitting restricted transactions.

''(III) The extent to which the payment system or person has established and is maintaining policies and procedures in compliance with regulations prescribed under this subsection.

''(8) TRANSACTIONS PERMITTED.—A payment system, or a person described in paragraph (2)(B) that is subject to a regulation issued under this subsection, is authorized to engage in transactions with foreign pharmacies in connection with investigating violations or potential violations of any rule or requirement adopted by the payment system or person in connection with complying with paragraph (7). A payment system, or such a person, and its agents and employees shall not be found to be in violation of, or liable under, any Federal, State or other law by virtue of engaging in any such transaction.

''(9) RELATION TO STATE LAWS.—No requirement, prohibition, or liability may be imposed on a payment system, or a person described in paragraph (2)(B) that is subject to a regulation issued under this subsection, under the laws of any state with respect to any payment transaction by an individual because the payment transaction involves a payment to a foreign pharmacy.

''(10) TIMING OF REQUIREMENTS.—A payment system, or a person described in paragraph (2)(B) that is subject to a regulation issued under this subsection, must adopt policies and procedures reasonably designed to comply with any regulations required under paragraph (7) within 60 days after such regulations are issued in final form.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the day that is 90 days after the date of enactment of this division.

(c) IMPLEMENTATION.—The Board of Governors of the Federal Reserve System shall promulgate regulations as required by subsection (h)(7) of section 303 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 333), as added by subsection (a), not later than 90 days after the date of enactment of this division.

SEC. 9. IMPORTATION EXEMPTION UNDER CONTROLLED SUBSTANCES IMPORT AND EXPORT ACT.

Section 1006(a)(2) of the Controlled Substances Import and Export Act (21 U.S.C. 956(a)(2)) is amended by striking ''not import the controlled substance into the United States in an amount that exceeds 50 dosage units of the controlled substance.'' and inserting ''import into the United States not more than 10 dosage units combined of all such controlled substances.''.

SEC. 10. SEVERABILITY.

If any provision of this division, an amendment by this division, or the application of such provision or amendment to any person or circumstance is held to be unconstitutional, the remainder of this division, the

amendments made by this division, and the application of the provisions of such to any person or circumstance shall not affected thereby.

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 Committee on Energy and Natural Resources Subcommittee on Public Lands and Forests.

The hearing will be held on Wednesday, June 17, 2009, at 2:30 p.m. in room SD–366 of the Dirksen Senate office building.

The purpose of the hearing is to receive testimony on the following bills:

S.409, to secure Federal ownership and management of significant natural, scenic, and recreational resources, to provide for the protection of cultural resources, to facilitate the efficient extraction of mineral resources by authorizing and directing an exchange of Federal and non-Federal land, and for other purposes; S. 782, to provide for the establishment of the National Volcano Early Warning and Monitoring System; S.874, to establish El Rio Grande Del Norte National Conservation Area in the State of New Mexico, and for other purposes; S.1139, to require the Secretary of Agriculture to enter into a property conveyance with the city of Wallowa, Oregon, and for other purposes; and S.1140, to direct the Secretary of the Interior to convey certain Federal land to Deschutes County, Oregon.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record should send it to the Committee on Energy and Natural Resources, U.S. Senate, Washington, DC 20510–6150, or by email to anna__fox@energy.senate.gov.

For further information, please contact David Brooks at (202) 224–9863 or Anna Fox at (202) 224–1219.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. DODD. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on Tuesday, June 2, 2009, at 9:30 a.m.

The PRESIDING OFFICER. With objection, it is so ordered.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. DODD. 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, June 2, 2009, at 2:15 p.m., in room SD–366 of the Dirksen Senate Office Building.

The PRESIDING OFFICER. With objection, it is so ordered.

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. DODD. 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, June 2, 2009, at 10 a.m., in room 406 of the Dirksen Senate Office Building.

The PRESIDING OFFICER. With objection, it is so ordered.

COMMITTEE ON HOMELAND SECURITY AND GOVERNMENT AFFAIRS

Mr. DODD. Mr. President, I ask unanimous consent that the Committee on Homeland Security and Governmental Affairs be authorized to meet during the session of the Senate on Tuesday, June 2, 2008, at 2:30 p.m.

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

SELECT COMMITTEE ON INTELLIGENCE

Mr. DODD. Mr. President I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on June 2, 2009, at 2:30 p.m.

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

SUPPLEMENTAL APPROPRIATIONS ACT, 2009

On Thursday, May 21, 2009, the Senate passed H.R. 2346, as amended, as follows:

H.R. 2346

Resolved, That the bill from the House of Representatives (H.R. 2346) entitled ''An Act making supplemental appropriations for the fiscal year ending September 30, 2009, and for other purposes.'', do pass with the following amendment:

Strike out all after the enacting clause and insert the following:

That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 2009, and for other purposes, namely:

TITLE I

DEPARTMENT OF AGRICULTURE

FOREIGN AGRICULTURAL SERVICE

PUBLIC LAW 480 TITLE II GRANTS

For an additional amount for ''Public Law 480 Title II Grants'', $700,000,000, to remain available until expended: Provided, That the amount under this heading is designated as being for overseas deployments and other activities pursuant to sections 401(c)(4) and 423(a) of S. Con. Res. 13 (111th Congress), the concurrent resolution on the budget for fiscal year 2010.

GENERAL PROVISION—THIS TITLE

SEC. 101. Notwithstanding any other provision of law, any amounts made available prior to the date of enactment of this Act to provide assistance under the emergency conservation program established under title IV of the Agricultural Credit Act of 1978 (16 U.S.C. 2201 and 2202) that are unobligated as of the date of enactment of this Act shall be available to carry out any purpose under that program without fiscal year limitation: Provided, That the amount under this heading is designated as an emergency requirement and necessary to meet emergency needs pursuant to sections 403(a) and 423(b) of S. Con. Res. 13 (111th Congress), the concurrent resolution on the budget for fiscal year 2010.

(INCLUDING RESCISSION OF FUNDS)

SEC. 102. (a)(1) For an additional amount for gross obligations for the principal amount of direct farm ownership (7 U.S.C. 1922 et seq.) and operating (7 U.S.C. 1941 et seq.) loans, to be available from funds in the Agricultural Credit Insurance Fund, as follows: direct farm ownership loans, $360,000,000; and direct operating loans, $225,000,000.

(2) For an additional amount for the cost of direct loans, including the cost of modifying loans as defined in section 502 of the Congressional Budget Act of 1974, as follows: direct farm ownership loans, $22,860,000; and direct operating loans, $26,530,000.

(b) Of available unobligated discretionary balances from the Rural Development mission area carried forward from fiscal year 2008, $49,390,000 are hereby rescinded: Provided, That none of the amounts may be rescinded other than those from amounts that were designated by the Congress as an emergency requirement pursuant to a Concurrent Resolution on the Budget or the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

(c) That the amount under this section is designated as an emergency requirement and necessary to meet emergency needs pursuant to sections 403(a) and 423(b) of S. Con. Res. 13 (111th Congress), the concurrent resolution on the budget for fiscal year 2010.

TITLE II

DEPARTMENT OF COMMERCE

ECONOMIC DEVELOPMENT ADMINISTRATION

ECONOMIC DEVELOPMENT ASSISTANCE PROGRAMS

For an additional amount for ''Economic Development Assistance Programs'', $40,000,000, to remain available until September 30, 2010: Provided, That the amount provided under this heading shall be for the Trade Adjustment Assistance for Communities program as authorized by section 1872 of Public Law 111–5: Provided further, That the amount provided under this heading is designated as an emergency requirement and necessary to meet emergency needs pursuant to sections 403(a) and 423(b) of S. Con. Res. 13 (111th Congress), the concurrent resolution on the budget for fiscal year 2010.

DEPARTMENT OF JUSTICE

GENERAL ADMINISTRATION

SALARIES AND EXPENSES

For an additional amount for ''Salaries and expenses'', $30,000,000, to remain available until September 30, 2010: Provided, That funds provided in the previous proviso shall only be for carrying out Department of Justice responsibilities required by Executive Orders 13491, 13492, and 13493: Provided further, That the Attorney General shall submit to the Committees on Appropriations of the House and the Senate a detailed plan for expenditure of such funds no later than 30 days after enactment of this Act.

DETENTION TRUSTEE

For an additional amount for ''Detention trustee'', $60,000,000, to remain available until September 30, 2010.

LEGAL ACTIVITIES

SALARIES AND EXPENSES, GENERAL LEGAL ACTIVITIES

For an additional amount for ''Salaries and expenses, general legal activities'', $1,648,000, to remain available until September 30, 2010.

SALARIES AND EXPENSES, UNITED STATES ATTORNEYS

For an additional amount for ''Salaries and expenses, United States attorneys'', $5,000,000, to remain available until September 30, 2010.

For an additional amount for ''Salaries and expenses, United States attorneys'', $10,000,000, to remain available until September 30, 2010: Provided, That the amount provided in this paragraph is designated as an emergency requirement and necessary to meet emergency needs pursuant to sections 403(a) and 423(b) of S. Con. Res. 13 (111th Congress), the concurrent resolution on the budget for fiscal year 2010.

UNITED STATES MARSHALS SERVICES

SALARIES AND EXPENSES

For an additional amount for ''Salaries and expenses'', $10,000,000, to remain available until September 30, 2010.

NATIONAL SECURITY DIVISION

SALARIES AND EXPENSES

For an additional amount for ''Salaries and expenses,'' $1,389,000, to remain available until September 30, 2010.

FEDERAL BUREAU OF INVESTIGATIONS

SALARIES AND EXPENSES

For an additional amount for ''Salaries and expenses'', $35,000,000, to remain available until September 30, 2010: Provided, That the amount provided under this heading is designated as an emergency requirement and necessary to meet emergency needs pursuant to sections 403(a) and 423(b) of S. Con. Res. 13 (111th Congress), the concurrent resolution on the budget for fiscal year 2010.

DRUG ENFORCEMENT ADMINISTRATION

SALARIES AND EXPENSES

For an additional amount for ''Salaries and expenses'', $20,000,000, to remain available until September 30, 2010.

BUREAU OF ALCOHOL, TOBACCO, FIREARMS AND EXPLOSIVES

SALARIES AND EXPENSES

For an additional amount for ''Salaries and expenses'', $14,000,000, to remain available until September 30, 2010.

FEDERAL PRISON SYSTEM

SALARIES AND EXPENSES

For an additional amount for ''Salaries and expenses'', $5,038,000, to remain available until September 30, 2010.

GENERAL PROVISIONS—THIS TITLE

SEC. 201. Unless otherwise specified, each amount in this title is designated as being for overseas deployment and other activities pursuant to sections 401(c)(4) and 423(a) of S. Con. Res. 13 (111th Congress), the concurrent resolution on the budget for fiscal year 2010.

SEC. 202. (a)(1) None of the funds appropriated or otherwise made available by this Act or any prior Act may be used to transfer, release, or incarcerate any individual who was detained as of May 19, 2009, at Naval Station, Guantanamo Bay, Cuba, to or within the United States.

(2) In this subsection, the term ''United States'' means the several States and the District of Columbia.

(b) The amount appropriated or otherwise made available by title II for the Department of Justice for general administration under the heading ''SALARIES AND EXPENSES'' is hereby reduced by $30,000,000.

(c) The amount appropriated or otherwise made available by title III under the heading ''OPERATION AND MAINTENANCE, DEFENSE-WIDE'' under paragraph (3) is hereby reduced by $50,000,000.

TITLE III

DEPARTMENT OF DEFENSE

MILITARY PERSONNEL

MILITARY PERSONNEL, ARMY

For an additional amount for ''Military Personnel, Army'', $11,455,777,000.

MILITARY PERSONNEL, NAVY

For an additional amount for ''Military Personnel, Navy'', $1,565,227,000.

MILITARY PERSONNEL, MARINE CORPS

For an additional amount for ''Military Personnel, Marine Corps'', $1,464,353,000.

MILITARY PERSONNEL, AIR FORCE

For an additional amount for ''Military Personnel, Air Force'', $1,469,173,000.

RESERVE PERSONNEL, ARMY

For an additional amount for ''Reserve Personnel, Army'', $387,155,000.

RESERVE PERSONNEL, NAVY

For an additional amount for ''Reserve Personnel, Navy'', $39,478,000.

RESERVE PERSONNEL, MARINE CORPS

For an additional amount for ''Reserve Personnel, Marine Corps'', $29,179,000.

RESERVE PERSONNEL, AIR FORCE

For an additional amount for ''Reserve Personnel, Air Force'', $14,943,000.

NATIONAL GUARD PERSONNEL, ARMY

For an additional amount for ''National Guard Personnel, Army'', $1,542,333,000.

NATIONAL GUARD PERSONNEL, AIR FORCE

For an additional amount for ''National Guard Personnel, Air Force'', $46,860,000.

OPERATION AND MAINTENANCE

OPERATION AND MAINTENANCE, ARMY

For an additional amount for ''Operation and Maintenance, Army'', $13,933,801,000.

OPERATION AND MAINTENANCE, NAVY

For an additional amount for ''Operation and Maintenance, Navy'', $2,337,360,000.

OPERATION AND MAINTENANCE, MARINE CORPS

For an additional amount for ''Operation and Maintenance, Marine Corps'', $1,037,842,000.

OPERATION AND MAINTENANCE, AIR FORCE

For an additional amount for ''Operation and Maintenance, Air Force'', $5,992,125,000.

OPERATION AND MAINTENANCE, DEFENSE-WIDE

For an additional amount for ''Operation and Maintenance, Defense-Wide'', $5,065,783,000, of which:

(1) not to exceed $12,500,000 for the Combatant Commander Initiative Fund, to be used in support of Operation Iraqi Freedom and Operation Enduring Freedom;

(2) not to exceed $1,050,000,000, to remain available until expended, for payments to reimburse key cooperating nations, for logistical, military, and other support including access provided to United States military operations in support of Operation Iraqi Freedom and Operation Enduring Freedom, notwithstanding any other provision of law: Provided, That such reimbursement payments may be made in such amounts as the Secretary of Defense, with the concurrence of the Secretary of State, and in consultation with the Director of the Office of Management and Budget, may determine, in his discretion, based on documentation determined by the Secretary of Defense to adequately account for the support provided and such determination is final and conclusive upon the accounting officers of the United States, and 15 days following notification to the appropriate congressional committees: Provided further, That these funds may be used for the purpose of providing specialized training and procuring supplies and specialized equipment and providing such supplies and loaning such equipment on a non-reimbursable basis to coalition forces supporting United States military operations in Iraq and Afghanistan: Provided further, That the Secretary of Defense shall provide quarterly reports to the congressional defense committees on the use of funds provided in this paragraph; and

(3) up to $50,000,000 shall be available, 30 days after the Secretary of Defense submits an expenditure plan to the congressional defense committees detailing the specific planned use of these funds, only to support the relocation and disposition of individuals detained at the Guantanamo Bay Naval Base to locations outside of the United States, relocate military and support forces associated with detainee operations, and facilitate the closure of detainee facilities: Provided, That the Secretary of Defense shall certify in writing to the congressional defense committees, prior to transferring prisoners to foreign nations, that he has been assured by the receiving nation that the individual or individuals to be transferred will be retained in that nation's custody as long as they remain a threat to the national security interest of the United States: Provided further, That the funds in this paragraph available to provide assistance to foreign nations to facilitate the relocation and disposition of individuals detained at the Guantanamo Bay Naval Base are in addition to any other authority to provide assistance to foreign nations: Provided further, That these funds are available for transfer to any other appropriations accounts of the Department of Defense or, with the concurrence of the head of the relevant Federal department or agency, to any other Federal appropriations accounts to accomplish the purposes provided herein: Provided further, That this transfer authority is in addition to any other transfer authority available to the Department of Defense.

OPERATION AND MAINTENANCE, ARMY RESERVE

For an additional amount for ''Operation and Maintenance, Army Reserve'', $110,017,000.

OPERATION AND MAINTENANCE, NAVY RESERVE

For an additional amount for ''Operation and Maintenance, Navy Reserve'', $25,569,000.

OPERATION AND MAINTENANCE, MARINE CORPS RESERVE

For an additional amount for ''Operation and Maintenance, Marine Corps Reserve'', $30,775,000.

OPERATION AND MAINTENANCE, AIR FORCE RESERVE

For an additional amount for ''Operation and Maintenance, Air Force Reserve'', $34,599,000.

OPERATION AND MAINTENANCE, ARMY NATIONAL GUARD

For an additional amount for ''Operation and Maintenance, Army National Guard'', $203,399,000.

AFGHANISTAN SECURITY FORCES FUND

For the ''Afghanistan Security Forces Fund'', $3,606,939,000, to remain available until September 30, 2010: Provided, That such funds shall be available to the Secretary of Defense, notwithstanding any other provision of law, for the purpose of allowing the Commander, Combined Security Transition Command—Afghanistan, or the Secretary's designee, to provide assistance, with the concurrence of the Secretary of State, to the security forces of Afghanistan, including the provision of equipment, supplies, services, training, facility and infrastructure repair, renovation, and construction, and funding: Provided further, That the authority to provide assistance under this heading is in addition to any other authority to provide assistance to foreign nations: Provided further, That contributions of funds for the purposes provided herein from any person, foreign government, or international organization may be credited to this Fund and used for such purposes: Provided further, That the Secretary shall notify the congressional defense committees in writing upon the receipt and upon the transfer of any contribution, delineating the sources and amounts of the funds received and the specific use of such contributions: Provided further, That the Secretary of Defense shall, not fewer than 15 days prior to making transfers from this appropriation account, notify the congressional defense committees in writing of the details of any such transfer.

IRAQ SECURITY FORCES FUND

For an additional amount for the ''Iraq Security Forces Fund'', $1,000,000,000, to remain available until September 30, 2011: Provided, That, not later than July 31, 2010, any remaining unobligated funds in this account shall be transferred to the Department of State to be available for the same purposes as provided herein.

PAKISTAN COUNTERINSURGENCY CAPABILITY FUND

(INCLUDING TRANSFER OF FUNDS)

There is hereby established in the Treasury of the United States the ''Pakistan Counterinsurgency Capability Fund''. For the ''Pakistan Counterinsurgency Capability Fund'', $400,000,000, to remain available until September 30, 2010: Provided, That such funds shall be available to the Secretary of Defense, with the concurrence of the Secretary of State, notwithstanding any other provision of law, for the purpose of allowing the Commander, United States Central Command, or the Secretary's designee, to provide assistance to Pakistan's security forces; including program management and the provision of equipment, supplies, services, training, and funds; and facility and infrastructure repair, renovation, and construction to build the counterinsurgency capability of Pakistan's military and Frontier Corps, and of which up to $2,000,000 shall be available to assist the Government of Pakistan in creating a program to respond to urgent humanitarian relief and reconstruction requirements that will immediately assist Pakistani people affected by military operations: Provided further, That the authority to provide assistance under this provision is in addition to any other authority to provide assistance to foreign nations: Provided further, That the Secretary of Defense may transfer such amounts as he may determine from the funds provided herein to appropriations for operation and maintenance; Overseas Humanitarian, Disaster, and Civic Aid; procurement; research, development, test and evaluation; and defense working capital funds: Provided further, That funds so transferred shall be merged with and be available for the same purposes and for the same time period as the appropriation or fund to which transferred: Provided further, That the Secretary of Defense shall, not fewer than 15 days prior to making transfers from this appropriation account, notify the congressional defense committees in writing of the details of any such transfer.

PROCUREMENT

AIRCRAFT PROCUREMENT, ARMY

For an additional amount for ''Aircraft Procurement, Army'', $315,684,000, to remain available until September 30, 2011.

MISSILE PROCUREMENT, ARMY

For an additional amount for ''Missile Procurement, Army'', $737,041,000, to remain available until September 30, 2011.

PROCUREMENT OF WEAPONS AND TRACKED COMBAT VEHICLES, ARMY

For an additional amount for ''Procurement of Weapons and Tracked Combat Vehicles, Army'', $1,434,071,000, to remain available until September 30, 2011.

PROCUREMENT OF AMMUNITION, ARMY

For an additional amount for ''Procurement of Ammunition, Army'', $230,075,000, to remain available until September 30, 2011.

OTHER PROCUREMENT, ARMY

For an additional amount for ''Other Procurement, Army'', $7,029,145,000, to remain available until September 30, 2011.

AIRCRAFT PROCUREMENT, NAVY

For an additional amount for ''Aircraft Procurement, Navy'', $754,299,000, to remain available until September 30, 2011.

WEAPONS PROCUREMENT, NAVY

For an additional amount for ''Weapons Procurement, Navy'', $31,403,000, to remain available until September 30, 2011.

PROCUREMENT OF AMMUNITION, NAVY AND MARINE CORPS

For an additional amount for ''Procurement of Ammunition, Navy and Marine Corps'', $348,919,000, to remain available until September 30, 2011.

OTHER PROCUREMENT, NAVY

For an additional amount for ''Other Procurement, Navy'', $207,181,000, to remain available until September 30, 2011.

PROCUREMENT, MARINE CORPS

For an additional amount for ''Procurement, Marine Corps'', $1,658,347,000, to remain available until September 30, 2011.

AIRCRAFT PROCUREMENT, AIR FORCE

For an additional amount for ''Aircraft Procurement, Air Force'', $2,064,118,000, to remain available for obligation until September 30, 2011.

MISSILE PROCUREMENT, AIR FORCE

For an additional amount for ''Missile Procurement, Air Force'', $49,716,000, to remain available until September 30, 2011.

PROCUREMENT OF AMMUNITION, AIR FORCE

For an additional amount for ''Procurement of Ammunition, Air Force'', $138,284,000, to remain available until September 30, 2011.

OTHER PROCUREMENT, AIR FORCE

For an additional amount for ''Other Procurement, Air Force'', $1,910,343,000, to remain available until September 30, 2011.

PROCUREMENT, DEFENSE-WIDE

For an additional amount for ''Procurement, Defense-Wide'', $237,868,000, to remain available until September 30, 2011.

NATIONAL GUARD AND RESERVE EQUIPMENT

For an additional amount for ''National Guard and Reserve Equipment'', $500,000,000, to remain available until September 30, 2011.

MINE RESISTANT AMBUSH PROTECTED VEHICLE FUND

(INCLUDING TRANSFER OF FUNDS)

For the ''Mine Resistant Ambush Protected Vehicle Fund'', $4,243,000,000, to remain available until September 30, 2010: Provided, That such funds shall be available to the Secretary of Defense, notwithstanding any other provision of law, to procure, sustain, transport, and field Mine Resistant Ambush Protected vehicles: Provided further, That the Secretary shall transfer such funds only to appropriations for operation and maintenance; procurement; research, development, test and evaluation; and defense working capital funds to accomplish the purpose provided herein: Provided further, That this transfer authority is in addition to any other transfer authority available to the Department of Defense: Provided further, That the Secretary shall, not fewer than 15 days prior to making transfers from this appropriation, notify the congressional defense committees in writing of the details of any such transfer.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, ARMY

For an additional amount for ''Research, Development, Test and Evaluation, Army'', $71,935,000, to remain available until September 30, 2010.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, NAVY

For an additional amount of ''Research, Development, Test and Evaluation, Navy'', $141,681,000, to remain available until September 30, 2010.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, AIR FORCE

For an additional amount of ''Research, Development, Test and Evaluation, Air Force'', $174,159,000, to remain available until September 30, 2010.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, DEFENSE-WIDE

For an additional amount of ''Research, Development, Test and Evaluation, Defense-Wide'', $498,168,000, to remain available until September 30, 2010.

REVOLVING AND MANAGEMENT FUNDS

DEFENSE WORKING CAPITAL FUNDS

For an additional amount for ''Defense Working Capital Funds'', $861,726,000, to remain available until expended.

DEFENSE HEALTH PROGRAM

For an additional amount for ''Defense Health Program'', $909,297,000, of which $845,508,000 for operation and maintenance; of which $30,185,000, to remain available until September 30, 2011, for procurement; and of which $33,604,000, to remain available until September 30, 2010, for research, development, test and evaluation.

DRUG INTERDICTION AND COUNTER-DRUG ACTIVITIES, DEFENSE

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for ''Drug Interdiction and Counter-Drug Activities, Defense'', $123,398,000, to remain available until September 30, 2010: Provided, That these funds may be used only for such activities related to Afghanistan, Pakistan, and Central Asia.

JOINT IMPROVISED EXPLOSIVE DEVICE DEFEAT FUND

For an additional amount for ''Joint Improvised Explosive Device Defeat Fund'', $1,116,746,000, to remain available until September 30, 2011.

OFFICE OF THE INSPECTOR GENERAL

For an additional amount for ''Office of the Inspector General'', $9,551,000.

GENERAL PROVISIONS—THIS TITLE

SEC. 301. Notwithstanding any other provision of law, funds made available in this title are in addition to amounts appropriated or otherwise made available for the Department of Defense for fiscal year 2009.

(INCLUDING TRANSFER OF FUNDS)

SEC. 302. Upon the determination of the Secretary of Defense that such action is necessary in the national interest, the Secretary may transfer between appropriations up to $2,500,000,000 of the funds made available to the Department of Defense in this title: Provided, That the Secretary shall notify the Congress promptly of each transfer made pursuant to this authority: Provided further, That the authority provided in this section is in addition to any other transfer authority available to the Department of Defense and is subject to the same terms and conditions as the authority provided in section 8005 of the Department of Defense Appropriations Act, 2009, (Public Law 110–116) except for the fourth proviso.

SEC. 303. Funds appropriated by this Act, or made available by the transfer of funds in this Act, for intelligence activities are deemed to be specifically authorized by the Congress for purposes of section 504(a)(1) of the National Security Act of 1947 (50 U.S.C. 414(a)(1)).

SEC. 304. During fiscal year 2009 and from funds in the ''Defense Cooperation Account'', as established by 10 U.S.C. 2608, the Secretary of Defense may transfer not to exceed $6,500,000 to such appropriations or funds of the Department of Defense as the Secretary shall determine for use consistent with the purposes for which such funds were contributed and accepted: Provided, That such amounts shall be available for the same time period as the appropriation to which transferred: Provided further, That the Secretary shall report to the Congress all transfers made pursuant to this authority.

SEC. 305. Supervision and administration costs associated with a construction project funded with appropriations available for operation and maintenance or ''Afghanistan Security Forces Fund'' provided in this title, and executed in direct support of the overseas contingency operations in Iraq and Afghanistan, may be obligated at the time a construction contract is awarded: Provided, That for the purpose of this section, supervision and administration costs include all in-house Government costs.

SEC. 306. Funds made available in this title to the Department of Defense for operation and maintenance may be used to purchase items having an investment unit cost of not more than $250,000: Provided, That upon determination by the Secretary of Defense that such action is necessary to meet the operational requirements of a Commander of a Combatant Command engaged in contingency operations overseas, such funds may be used to purchase items having an investment item unit cost of not more than $500,000: Provided further, That the Secretary shall report to the Congress all purchases made pursuant to this authority within 30 days of using the authority.

SEC. 307. From funds made available in this title, the Secretary of Defense may purchase motor vehicles for use by military and civilian employees of the Department of Defense in Iraq and Afghanistan, up to a limit of $75,000 per vehicle, notwithstanding other limitations applicable to passenger carrying motor vehicles.

SEC. 308. Of the funds appropriated in Department of Defense Appropriations Acts, the following funds are hereby rescinded from the following accounts and programs in the specified amounts: Provided, That none of the amounts may be rescinded from amounts that were designated by the Congress as an emergency requirement pursuant to a Concurrent Resolution on the Budget or the Balanced Budget and Emergency Deficit Control Act of 1985, as amended:

''Procurement, Marine Corps, 2007/2009'', $54,400,000;

''Other Procurement, Army, 2008/2010'', $29,300,000;

''Procurement, Marine Corps, 2008/2010'', $10,300,000;

''Research, Development, Test and Evaluation, Navy, 2008/2009'', $5,000,000;

''Research, Development, Test and Evaluation, Air Force, 2008/2009'', $36,107,000;

''Research, Development, Test and Evaluation, Defense-Wide, 2008/2009'', $200,000,000;

''Operation and Maintenance, Army, 2009/2009'', $352,359,000;

''Operation and Maintenance, Navy, 2009/2009'', $881,481,000;

''Operation and Maintenance, Marine Corps, 2009/2009'', $54,466,000;

''Operation and Maintenance, Air Force, 2009/2009'', $925,203,000;

''Operation and Maintenance, Defense-Wide, 2009/2009'', $267,635,000;

''Operation and Maintenance, Army Reserve, 2009/2009'', $23,338,000;

''Operation and Maintenance, Navy Reserve, 2009/2009'', $62,910,000;

''Operation and Maintenance, Marine Corps Reserve, 2009/2009'', $1,250,000;

''Operation and Maintenance, Air Force Reserve, 2009/2009'', $163,786,000;

''Operation and Maintenance, Army National Guard, 2009/2009'', $57,819,000;

''Operation and Maintenance, Air National Guard, 2009/2009'', $250,645,000;

''Aircraft Procurement, Army, 2009/2011'', $11,500,000;

''Procurement of Ammunition, Army, 2009/2011'', $107,100,000;

''Other Procurement, Army, 2009/2011'', $195,000,000;

''Procurement, Marine Corps, 2009/2011'', $10,300,000;

''Procurement, Defense-Wide, 2009/2011'', $6,400,000;

''Research, Development, Test and Evaluation, Army, 2009/2010'', $202,710,000;

''Research, Development, Test and Evaluation, Navy, 2009/2010'', $270,260,000; and

''Research, Development, Test and Evaluation, Air Force, 2009/2010'', $392,567,000.

SEC. 309. None of the funds appropriated or otherwise made available by this title may be obligated or expended to provide award fees to any defense contractor contrary to the provisions of section 814 of the National Defense Authorization Act, Fiscal Year 2007 (Public Law 109–364).

SEC. 310. None of the funds provided in this title may be used to finance programs or activities denied by Congress in fiscal years 2008 or 2009 appropriations to the Department of Defense or to initiate a procurement or research, development, test and evaluation new start program without prior written notification to the congressional defense committees.

SEC. 311. None of the funds appropriated or otherwise made available by this or any other Act shall be obligated or expended by the United States Government for the purpose of establishing any military installation or base for the purpose of providing for the permanent stationing of United States Armed Forces in Afghanistan.

SEC. 312. (a) REPEAL OF SECRETARY OF DEFENSE REPORTS ON TRANSITION READINESS OF IRAQ AND AFGHAN SECURITY FORCES.—Subsection (a) of section 9205 of Public Law 110–252 (122 Stat. 2412) is repealed.

(b) MODIFICATION OF REPORTS ON USE OF CERTAIN SECURITY FORCES FUNDS.—

(1) PREPARATION IN CONSULTATION WITH COMMANDER OF CENTCOM.—Subsection (b)(1) of such section is amended by inserting ''the Commander of the United States Central Command;'' after ''the Secretary of Defense;''.

(2) PERIOD OF REPORTS.—Such subsection is further amended by striking ''not later than 120 days after the date of the enactment of this Act and every 90 days thereafter'' and inserting ''not later than 45 days after the end of each fiscal year quarter''.

(3) FUNDS COVERED BY REPORTS.—Such subsection is further amended by striking ''and 'Afghanistan Security Forces Fund' '' and inserting '', 'Afghanistan Security Forces Fund', and 'Pakistan Counterinsurgency Capability Fund' ''.

(c) NOTICE NEW PROJECTS AND TRANSFERS OF FUNDS.—Subsection (c) of such section is amended by striking ''the headings'' and all that follows and inserting ''the headings as follows:

''(1) 'Iraq Security Forces Fund'.

''(2) 'Afghanistan Security Forces Fund'.

''(3) 'Pakistan Counterinsurgency Capability Fund'.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 313. (a) Section 1174(h)(1) of title 10, United States Code, is amended to read as follows:

''(1) A member who has received separation pay under this section, or separation pay, severance pay, or readjustment pay under any other provision of law, based on service in the armed forces, and who later qualifies for retired or retainer pay under this title or title 14 shall have deducted from each payment of such retired or retainer pay an amount, in such schedule of monthly installments as the Secretary of Defense shall specify, taking into account the financial ability of the member to pay and avoiding the imposition of undue financial hardship on the member and member's dependents, until the total amount deducted is equal to the total amount of separation pay, severance pay, and readjustment pay so paid.''.

(b) Section 1175(e)(3)(A) of title 10, United States Code, is amended to read as follows:

''(3)(A) A member who has received the voluntary separation incentive and who later qualifies for retired or retainer pay under this title shall have deducted from each payment of such retired or retainer pay an amount, in such schedule of monthly installments as the Secretary of Defense shall specify, taking into account the financial ability of the member to pay and avoiding the imposition of undue financial hardship on the member and member's dependents, until the total amount deducted is equal to the total amount of separation pay, severance pay, and readjustment pay so paid. If the member elected to have a reduction in voluntary separation incentive for any period pursuant to paragraph (2), the deduction required under the preceding sentence shall be reduced as the Secretary of Defense shall specify.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to any repayments of separation pay, severance pay, readjustment pay, special separation benefit, or voluntary separation incentive, that occur on or after the date of enactment, including any ongoing repayment actions that were initiated prior to this amendment.

SEC. 314. (a) IN GENERAL.—Unless otherwise designated, each amount in this title is designated as being for overseas deployments and other activities pursuant to sections 401(c)(4) and 423(a) of S. Con. Res. 13 (111th Congress), the concurrent resolution on the budget for fiscal year 2010.

(b) EXCEPTION.—Subsection (a) shall not apply to the amount rescinded in section 308 for ''Operation and Maintenance, Air Force''.

SEC. 315. (a) REPORTS REQUIRED.—Not later than 60 days after the date of the enactment of this Act and every 90 days thereafter, the President shall submit to the members and committees of Congress specified in subsection (b) a report on the prisoner population at the detention facility at Naval Station Guantanamo Bay, Cuba.

(b) SPECIFIED MEMBERS AND COMMITTEES OF CONGRESS.—The members and committees of Congress specified in this subsection are the following:

(1) The majority leader and minority leader of the Senate.

(2) The Chairman and Ranking Member on the Committee on Armed Services of the Senate.

(3) The Chairman and Vice Chairman of the Select Committee on Intelligence of the Senate.

(4) The Speaker of the House of Representatives.

(5) The minority leader of the House of Representatives.

(6) The Chairman and Ranking Member on the Committee on Armed Services of the House of Representatives.

(7) The Chairman and Vice Chairman of the Permanent Select Committee on Intelligence of the House of Representatives

(c) MATTERS TO BE INCLUDED.—Each report submitted under subsection (a) shall include the following:

(1) The name and country of origin of each detainee at the detention facility at Naval Station Guantanamo Bay, Cuba, as of the date of such report.

(2) A current summary of the evidence, intelligence, and information used to justify the detention of each detainee listed under paragraph (1) at Naval Station Guantanamo Bay.

(3) A current accounting of all the measures taken to transfer each detainee listed under paragraph (1) to the individual's country of citizenship or another country.

(4) A current description of the number of individuals released or transferred from detention at Naval Station Guantanamo Bay who are confirmed or suspected of returning to terrorist activities after release or transfer from Naval Station Guantanamo Bay.

(5) An assessment of any efforts by al Qaeda to recruit detainees released from detention at Naval Station Guantanamo Bay.

(6) For each detainee listed under paragraph (1), a threat assessment that includes—

(A) an assessment of the likelihood that such detainee may return to terrorist activity after release or transfer from Naval Station Guantanamo Bay;

(B) an evaluation of the status of any rehabilitation program in such detainee's country of origin, or in the country such detainee is anticipated to be transferred to; and

(C) an assessment of the risk posed to the American people by the release or transfer of such detainee from Naval Station Guantanamo Bay.

(d) ADDITIONAL MATTERS TO BE INCLUDED IN INITIAL REPORT.—The first report submitted

under subsection (a) shall also include the following:

(1) A description of the process that was previously used for screening the detainees described by subsection (c)(4) prior to their release or transfer from detention at Naval Station Guantanamo Bay, Cuba.

(2) An assessment of the adequacy of that screening process for reducing the risk that detainees previously released or transferred from Naval Station Guantanamo Bay would return to terrorist activities after release or transfer from Naval Station Guantanamo Bay.

(3) An assessment of lessons learned from previous releases and transfers of individuals who returned to terrorist activities for reducing the risk that detainees released or transferred from Naval Station Guantanamo Bay will return to terrorist activities after their release or transfer.

(e) FORM.—Each report submitted under subsection (a), or parts thereof, may be submitted in classified form.

(f) LIMITATION ON RELEASE OR TRANSFER.—No detainee detained at the detention facility at Naval Station Guantanamo Bay, Cuba, as of the date of the enactment of this Act may be released or transferred to another country until the President—

(1) submits to Congress the first report required by subsection (a); or

(2) certifies to the members and committees of Congress specified in subsection (b) that such action poses no threat to the members of the United States Armed Forces.

(g) SENSE OF SENATE.—It is the sense of the Senate that the Secretary of Defense should consult with State and local government officials before making any decision about where detainees at Naval Station Guantanamo Bay, Cuba, might be transferred, housed, or otherwise incarcerated as a result of the implementation of the Executive Order of the President to close the detention facilities at Naval Station Guantanamo Bay.

TITLE IV

DEPARTMENT OF DEFENSE—CIVIL

DEPARTMENT OF THE ARMY

CORPS OF ENGINEERS—CIVIL

OPERATION AND MAINTENANCE

For an additional amount for ''Operation and Maintenance'' to dredge navigation channels and repair damage to Corps projects nationwide related to natural disasters, $38,375,000, to remain available until expended: Provided, That the Assistant Secretary of the Army for Civil Works shall provide a monthly report to the Committees on Appropriations of the House of Representatives and the Senate detailing the allocation and obligation of these funds, beginning not later than 60 days after enactment of this Act: Provided further, That the amount under this heading is designated as an emergency requirement and necessary to meet emergency needs pursuant to sections 403(a) and 423(b) of S. Con. Res. 13 (111th Congress), the concurrent resolution on the budget for fiscal year 2010.

FLOOD CONTROL AND COASTAL EMERGENCIES

For an additional amount for ''Flood Control and Coastal Emergencies'', as authorized by section 5 of the Act of August 18, 1941 (33 U.S.C. 701n), for necessary expenses relating to the consequences of natural disasters as authorized by law, $804,290,000, to remain available until expended: Provided, That the Secretary of the Army is directed to use $315,290,000 of the funds appropriated under this heading to support emergency operations, repair eligible projects nationwide, and for other activities in response to natural disasters: Provided further, That the Secretary of the Army is directed to use $489,000,000 of the amount provided under this heading for barrier island restoration and ecosystem restoration to restore historic levels of storm damage reduction to the Mississippi Gulf Coast: Provided further, That this work shall be carried out at full Federal expense: Provided further, That the Assistant Secretary of the Army for Civil Works shall provide a monthly report to the Committees on Appropriations of the House of Representatives and the Senate detailing the allocation and obligation of these funds, beginning not later than 60 days after enactment of this Act: Provided further, That the amount under this heading is designated as an emergency requirement and necessary to meet emergency needs pursuant to sections 403(a) and 423(b) of S. Con. Res. 13 (111th Congress), the concurrent resolution on the budget for fiscal year 2010.

DEPARTMENT OF ENERGY

ENERGY PROGRAMS

STRATEGIC PETROLEUM RESERVE

(TRANSFER OF FUNDS)

For an additional amount for the ''Strategic Petroleum Reserve'' account, $21,585,723, to remain available until expended, to be derived by transfer from the ''SPR Petroleum Account'' for site maintenance activities: Provided, That the amount under this heading is designated as an emergency requirement and necessary to meet emergency needs pursuant to sections 403(a) and 423(b) of S. Con. Res. 13 (111th Congress), the concurrent resolution on the budget for fiscal year 2010.

NATIONAL NUCLEAR SECURITY ADMINISTRATION

WEAPONS ACTIVITIES

(TRANSFER OF FUNDS)

For an additional amount for ''Weapons Activities'', $34,500,000, to remain available until expended, to be divided among the three national security laboratories of Livermore, Sandia and Los Alamos to fund a sustainable capability to analyze nuclear and biological weapons intelligence: Provided, That the Director of National Intelligence shall provide a written report to the Senate Appropriations Committee, the Senate Armed Services Committee and the Senate Select Committee on Intelligence within 90 days of enactment on how the National Nuclear Security Administration will invest these resources in technical and core analytical capabilities: Provided further, That the amount under this heading is designated as being for overseas deployments and other activities pursuant to sections 401(c)(4) and 423(a) of S. Con. Res. 13 (111th Congress), the concurrent resolution on the budget for fiscal year 2010.

DEFENSE NUCLEAR NONPROLIFERATION

For an additional amount for ''Defense Nuclear Nonproliferation'' in the National Nuclear Security Administration, $55,000,000, to remain available until expended, for the International Nuclear Materials Protection and Cooperation Program to counter emerging threats at nuclear facilities in Russia and other countries of concern through detecting and deterring insider threats through security upgrades: Provided, That the amount under this heading is designated as being for overseas deployments and other activities pursuant to sections 401(c)(4) and 423(a) of S. Con. Res. 13 (111th Congress), the concurrent resolution on the budget for fiscal year 2010.

GENERAL PROVISIONS—THIS TITLE

LIMITED TRANSFER AUTHORITY

SEC. 401. Section 403 of title IV of division A of the American Recovery and Reinvestment Act of 2009 (Public Law 111–5) is amended by striking all of the text and inserting the following:

''SEC. 403. LIMITED TRANSFER AUTHORITY.

''The Secretary of Energy may transfer up to 0.5 percent from each amount appropriated to the Department of Energy in this title to any other appropriate account within the Department of Energy, to be used for management and oversight activities: Provided, That the Secretary shall provide a report to the Committees on Appropriations of the House of Representatives and the Senate 15 days prior to any transfer: Provided further, That any funds so transferred under this section shall remain available for obligation until September 30, 2012.''.

WAIVER OF FEDERAL EMPLOYMENT REQUIREMENTS

SEC. 402. Section 4601(c)(1) of the Atomic Energy Defense Act (50 U.S.C. 2701(c)(1)) is amended by striking ''September 30, 2008'' and inserting ''September 30, 2009''.

CORPS OF ENGINEERS TECHNICAL FIX

SEC. 403. (a) IN GENERAL.—Section 3181 of the Water Resources Development Act of 2007 (Public Law 110–114; 121 Stat. 1158) is amended—

(1) in subsection (a)—

(A) by redesignating paragraphs (4) through (11) as paragraphs (5), (6), (8), (9), (10), (11), (12), and (13), respectively;

(B) by inserting after paragraph (3) the following:

''(4) NORTHEAST HARBOR, MAINE.—The project for navigation, Northeast Harbor, Maine, authorized by section 2 of the Act of March 2, 1945 (59 Stat. 12).''; and

(C) by inserting after paragraph (6) (as redesignated by subparagraph (A)) the following:

''(7) TENANTS HARBOR, MAINE.—The project for navigation, Tenants Harbor, Maine, authorized by the first section of the Act of March 2, 1919 (40 Stat. 1275).''; and

(2) in subsection (h)—

(A) by striking paragraphs (15) and (16); and

(B) by redesignating paragraphs (17) through (29) as paragraphs (15) through (27), respectively.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect as if included in the Water Resources Development Act of 2007 (Public Law 110–114; 121 Stat. 1041)

CORPS OF ENGINEERS REPROGRAMMING AUTHORITY

SEC. 404. Unlimited reprogramming authority is granted to the Secretary of the Army for funds provided in title IV—Energy and Water Development of Public Law 111–5 under the heading ''Department of Defense—Civil, Department of the Army, Corps of Engineers—Civil''.

BUREAU OF RECLAMATION REPROGRAMMING AUTHORITY

SEC. 405. Unlimited reprogramming authority is granted to the Secretary of the Interior for funds provided in title IV—Energy and Water Development of Public Law 111–5 under the heading ''Bureau of Reclamation, Water and Related Resources''.

COST ANALYSIS OF TRITIUM PROGRAM CHANGES

SEC. 406. No funds in this Act, or other previous Acts, shall be provided to fund activities related to the mission relocation of either the design authority for the gas transfer systems or tritium research and development facilities during the current fiscal year and until the Department can provide the Senate Appropriations Committee an independent technical mission review and cost analysis by the JASON's as proposed in the Complex Transformation Site-Wide Programmatic Environmental Impact Statement.

CORPS OF ENGINEERS PROJECT COST CEILING INCREASE

SEC. 407. The project for ecosystem restoration, Upper Newport Bay, California, authorized by section 101(b)(9) of the Water Resources Development Act of 2000 (114 Stat. 2577), is modified to authorize the Secretary to construct the project at a total cost of $50,659,000, with an estimated Federal cost of $32,928,000 and a non-Federal cost of $17,731,000.

SEC. 408. None of the funds provided in the matter under the heading entitled ''Department of Defense—Civil'' in this Act, or provided by previous appropriations Acts under the heading entitled ''Department of Defense—Civil'' may be used to deconstruct any work (including any partially completed work) completed under the Mississippi River and Tributaries Project authorized by the Act of May 15, 1928 (45 2 Stat.

534; 100 Stat. 4183), during fiscal year 2009, 2010, and 2011.

TITLE 17 INNOVATIVE TECHNOLOGY LOAN GUARANTEE PROGRAM

SEC. 409. The matter under the heading ''Title 17 Innovative Technology Loan Guarantee Program'' of title III of division C of the Omnibus Appropriations Act, 2009 (Public Law 111–8; 123 Stat. 619) is amended in the ninth proviso—

(1) by striking ''or (d)'' and inserting ''(d)''; and

(2) by striking ''the guarantee'' and inserting ''the guarantee; (e) contracts, leases or other agreements entered into prior to May 1, 2009 for front-end nuclear fuel cycle projects, where such project licenses technology from the Department of Energy, and pays royalties to the federal government for such license and the amount of such royalties will exceed the amount of federal spending, if any, under such contracts, leases or agreements; or (f) grants or cooperative agreements, to the extent that obligations of such grants or cooperative agreements have been recorded in accordance with section 1501(a)(5) of title 31, United States Code, on or before May 1, 2009''.

TITLE V

DEPARTMENT OF THE TREASURY

DEPARTMENTAL OFFICES

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for ''Departmental Offices, Salaries and Expenses'', $4,000,000, to remain available until December 31, 2010: Provided, That, not later than 10 days following enactment of this Act, the Secretary of the Treasury shall transfer funds provided under this heading to an account to be designated for the necessary expenses of the Financial Crisis Inquiry Commission established pursuant to section 5 of the Fraud Enforcement and Recovery Act of 2009: Provided further, That the amount under this heading is designated as an emergency requirement and necessary to meet emergency needs pursuant to sections 403(a) and 423(b) of S. Con. Res. 13 (111th Congress), the concurrent resolution on the budget for fiscal year 2010.

EXECUTIVE OFFICE OF THE PRESIDENT AND FUNDS APPROPRIATED TO THE PRESIDENT

NATIONAL SECURITY COUNCIL

SALARIES AND EXPENSES

For an additional amount for ''Salaries and Expenses'', $2,936,000, of which $800,000 shall remain available until expended and $2,136,000 shall remain available until September 30, 2010: Provided, That the amount under this heading is designated as being for overseas deployments and other activities pursuant to sections 401(c)(4) and 423(a) of S. Con. Res. 13 (111th Congress), the concurrent resolution on the budget for fiscal year 2010.

PANDEMIC PREPAREDNESS AND RESPONSE

(INCLUDING TRANSFERS OF FUNDS)

For an amount to be deposited into an account for ''Pandemic Preparedness and Response'' to be established within the Executive Office of the President for expenses to prepare for and respond to a potential pandemic disease outbreak and to assist international efforts to control the spread of such an outbreak, including for the 2009–H1N1 influenza outbreak, $1,500,000,000, to remain available until September 30, 2010, and to be transferred by the Director of the Office of Management and Budget as follows: $900,000,000 shall be transferred to and merged with funds made available under the heading ''Department of Health and Human Services, Public Health and Social Services Emergency Fund'' for allocation by the Secretary; $190,000,000 shall be transferred to and merged with funds made available for the United States Department of Homeland Security under the heading ''Departmental Management and Operations, Office of the Secretary and Executive Management'' for allocation by the Secretary; $100,000,000 shall be transferred to and merged with funds made available for the United States Department of Agriculture under the heading ''Agricultural Programs, Production, Processing and Marketing, Office of the Secretary'' for allocation by the Secretary; $50,000,000 shall be transferred to and merged with funds made available under the heading ''Department of Health and Human Services, Food and Drug Administration, Salaries and Expenses''; $110,000,000 shall be transferred to and merged with funds made available under the heading ''Department of Veterans Affairs, Veterans Health Administration, Medical Services''; and $150,000,000 shall be transferred to and merged with funds made available under the heading ''Bilateral Economic Assistance, Funds Appropriated to the President, Global Health and Child Survival'', to support programs of the United States Agency for International Development: Provided, That such transfers shall be made not more than 10 days after the date of enactment of this Act: Provided further, That none of the funds provided under this heading shall be available for obligation until 15 days following the submittal of a detailed spending plan by each Department receiving funds to the Committees on Appropriations of the House of Representatives and the Senate: Provided further, That the transfer authority provided under this heading is in addition to any other transfer authority available in this or any other Act: Provided further, That the amount under this heading is designated as an emergency requirement and necessary to meet emergency needs pursuant to sections 403(a) and 423(b) of S. Con. Res. 13 (111th Congress), the concurrent resolution on the budget for fiscal year 2010.

THE JUDICIARY

COURTS OF APPEALS, DISTRICT COURTS, AND OTHER JUDICIAL SERVICES

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for ''Salaries and Expenses'', $10,000,000, to remain available until September 30, 2010: Provided, That notwithstanding section 302 of division D of Public Law 111–8, funding shall be available for transfer between Judiciary accounts to meet increased workload requirements resulting from immigration and other law enforcement initiatives on the Southwest border: Provided further, That the amount under this heading is designated as being for overseas deployments and other activities pursuant to sections 401(c)(4) and 423(a) of S. Con. Res. 13 (111th Congress), the concurrent resolution on the budget for fiscal year 2010.

INDEPENDENT AGENCIES

SECURITIES AND EXCHANGE COMMISSION

SALARIES AND EXPENSES

For an additional amount for necessary expenses for the Securities and Exchange Commission, $10,000,000, to remain available until September 30, 2010, for investigation of securities fraud: Provided, That the amount under this heading is designated as an emergency requirement and necessary to meet emergency needs pursuant to sections 403(a) and 423(b) of S. Con. Res. 13 (111th Congress), the concurrent resolution on the budget for fiscal year 2010.

GENERAL PROVISIONS—THIS TITLE

SEC. 501. (a) IN GENERAL.—Section 3(c)(2)(A) of Public Law 110–428 is amended—

(1) in the matter before clause (i), by striking ''4-year'' and inserting ''5-year''; and

(2) in clause (i), by striking ''1-year'' and inserting ''2-year''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect as if included in the enactment of Public Law 110–428.

SEC. 502. The fourth proviso under the heading ''District of Columbia Funds'' of title IV of division D of the Omnibus Appropriations Act, 2009 (Public Law 111–8; 123 Stat. 655) is amended by striking ''and such title'' and inserting '', as amended by laws enacted pursuant to section 442(c) of the Home Rule Act of the District of Columbia Home Rule Act of 1973, approved December 24, 1973 (87 Stat. 798), and such title, as amended,''.

SEC. 503. Title V of division D of the Omnibus Appropriations Act, 2009 (Public Law 111–8) is amended under the heading ''Federal Communications Commission'' by striking the first proviso and inserting the following: ''Provided, That of the funds provided, not less than $3,000,000 shall be available for developing a national broadband plan pursuant to title VI of division B of the American Recovery and Reinvestment Act of 2009 (Public Law 111–5) and for carrying out any other responsibility pursuant to that title:''.

EXTENSION OF LIMITATIONS

SEC. 504. (a) IN GENERAL.—Section 44(f)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1831u(f)(1)) is amended—

(1) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively, and moving the margins 2 ems to the right;

(2) by striking ''evidence of debt by any insured'' and inserting the following: ''evidence of debt by—

''(A) any insured''; and

(3) by striking the period at the end and inserting the following: ''; and

''(B) any nondepository institution operating in such State, shall be equal to not more than the greater of the State's maximum lawful annual percentage rate or 17 percent—

''(i) to facilitate the uniform implementation of federally mandated or federally established programs and financings related thereto, including—

''(I) uniform accessibility of student loans, including the issuance of qualified student loan bonds as set forth in section 144(b) of the Internal Revenue Code of 1986;

''(II) the uniform accessibility of mortgage loans, including the issuance of qualified mortgage bonds and qualified veterans' mortgage bonds as set forth in section 143 of such Code;

''(III) the uniform accessibility of safe and affordable housing programs administered or subject to review by the Department of Housing and Urban Development, including—

''(aa) the issuance of exempt facility bonds for qualified residential rental property as set forth in section 142(d) of such Code;

''(bb) the issuance of low income housing tax credits as set forth in section 42 of such Code, to facilitate the uniform accessibility of provisions of the American Recovery and Reinvestment Act of 2009; and

''(cc) the issuance of bonds and obligations issued under that Act, to facilitate economic development, higher education, and improvements to infrastructure, and the issuance of bonds and obligations issued under any provision of law to further the same; and

''(ii) to facilitate interstate commerce generally, including consumer loans, in the case of any person or governmental entity (other than a depository institution subject to subparagraph (A) and paragraph (2)).''.

(b) EFFECTIVE PERIOD.—The amendments made by subsection (a) shall apply with respect to contracts consummated during the period beginning on the date of enactment of this Act and ending on December 31, 2010.

TITLE VI

DEPARTMENT OF HOMELAND SECURITY

U.S. CUSTOMS AND BORDER PROTECTION

SALARIES AND EXPENSES

For an additional amount for ''Salaries and Expenses'', $46,200,000, to remain available until September 30, 2010, of which $6,200,000 shall be for the care, treatment, and transportation of unaccompanied alien children; and of which

$40,000,000 shall be for response to border security issues on the Southwest border of the United States.

AIR AND MARINE INTERDICTION, OPERATIONS, MAINTENANCE, AND PROCUREMENT

For an additional amount for ''Salaries and Expenses'', $5,000,000, to remain available until September 30, 2010, for response to border security issues on the Southwest border of the United States.

U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT

SALARIES AND EXPENSES

For an additional amount for ''Salaries and Expenses'', $66,800,000, to remain available until September 30, 2010, of which $11,800,000 shall be for the care, treatment, and transportation of unaccompanied alien children; and of which $55,000,000 shall be for response to border security issues on the Southwest border of the United States.

COAST GUARD

OPERATING EXPENSES

For an additional amount for ''Operating Expenses'', $139,503,000; of which $129,503,000 shall be for Coast Guard operations in support of Operation Iraqi Freedom and Operation Enduring Freedom; and of which $10,000,000 shall be available until September 30, 2010, for High Endurance Cutter maintenance, major repairs, and improvements.

FEDERAL EMERGENCY MANAGEMENT AGENCY

STATE AND LOCAL PROGRAMS

For an additional amount for ''State and Local Programs'', $30,000,000 shall be for Operation Stonegarden.

GENERAL PROVISIONS—THIS TITLE

(INCLUDING RESCISSION)

SEC. 601. (a) RESCISSION.—Of amounts previously made available from ''Federal Emergency Management Agency, Disaster Relief'' to the State of Mississippi pursuant to section 404 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170c) for Hurricane Katrina, an additional $100,000,000 are rescinded.

(b) APPROPRIATION.—For ''Federal Emergency Management Agency, State and Local Programs'', there is appropriated an additional $100,000,000, to remain available until expended, for a grant to the State of Mississippi for an interoperable communications system required in the aftermath of Hurricane Katrina: Provided, That the amount under this heading is designated as an emergency requirement and necessary to meet emergency needs pursuant to sections 403(a) and 423(b) of S. Con. Res. 13 (111th Congress), the concurrent resolution on the budget for fiscal year 2010.

SEC. 602. The Department of Homeland Security Appropriations Act, 2009 (Public Law 110–329) is amended under the heading ''Federal Emergency Management Agency, Management and Administration'' after ''the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.),'' by adding ''Cerro Grande Fire Assistance Act of 2000 (division C, title I, 114 Stat. 583),''.

SEC. 603. Notwithstanding any provision under (a)(1)(A) of 15 U.S.C. 2229a specifying that grants must be used to increase the number of fire fighters in fire departments, the Secretary of Homeland Security may, in making grants described under 15 U.S.C. 2229a for fiscal year 2009 or 2010, grant waivers from the requirements of subsection (a)(1)(B), subsection (c)(1), subsection (c)(2), and subsection (c)(4)(A), and may award grants for the hiring, rehiring, or retention of firefighters.

SEC. 604. The Administrator of the Federal Emergency Management Agency shall extend through March 2010 reimbursement of case management activities conducted by the State of Mississippi under the Disaster Housing Assistance Program to individuals in the program on April 30, 2009.

SEC. 605. Section 552 of division E of the Consolidated Appropriations Act, 2008 (Public Law 110–161) is amended by striking ''local educational agencies'' and inserting ''primary or secondary school sites'' and by inserting ''and section 406(c)(2)'' after ''section 406(c)(1)''.

SEC. 606. (a) IN GENERAL.—Each amount in this title is designated as being for overseas deployments and other activities pursuant to sections 401(c)(4) and 423(a) of S. Con. Res. 13 (111th Congress), the concurrent resolution on the budget for fiscal year 2010.

(b) EXCEPTION.—Subsection (a) shall not apply to any amount under section 601 of this title.

SEC. 607. For purposes of qualification for loans made under the Disaster Assistance Direct Loan Program as allowed under Public Law 111–5 relating to disaster declaration DR–1791 (issued September 13, 2008) the base period for tax determining loss of revenue may be fiscal year 2009 or 2010.

TITLE VII

DEPARTMENT OF THE INTERIOR

DEPARTMENT-WIDE PROGRAMS

WILDLAND FIRE MANAGEMENT

(INCLUDING TRANSFER OF FUNDS)

For an additional amount to cover necessary expenses for wildfire suppression and emergency rehabilitation activities of the Department of the Interior, $50,000,000, to remain available until expended: Provided, That such funds shall only become available if funds provided previously for wildland fire suppression will be exhausted imminently and after the Secretary of the Interior notifies the Committees on Appropriations of the House of Representatives and the Senate in writing of the need for these additional funds: Provided further, That the Secretary of the Interior may transfer any of these funds to the Secretary of Agriculture if the transfer enhances the efficiency or effectiveness of Federal wildland fire suppression activities: Provided further, That the amount under this heading is designated as an emergency requirement and necessary to meet emergency needs pursuant to sections 403(a) and 423(b) of S. Con. Res. 13 (111th Congress), the concurrent resolution on the budget for fiscal year 2010.

DEPARTMENT OF AGRICULTURE

FOREST SERVICE

WILDLAND FIRE MANAGEMENT

(INCLUDING TRANSFER OF FUNDS)

For an additional amount to cover necessary expenses for wildfire suppression and emergency rehabilitation activities of the Forest Service, $200,000,000, to remain available until expended: Provided, That such funds shall only become available if funds provided previously for wildland fire suppression will be exhausted imminently and after the Secretary of Agriculture notifies the Committees on Appropriations of the House of Representatives and the Senate in writing of the need for these additional funds: Provided further, That the Secretary of Agriculture may transfer not more than $50,000,000 of these funds to the Secretary of the Interior if the transfer enhances the efficiency or effectiveness of Federal wildland fire suppression activities: Provided further, That the amount under this heading is designated as an emergency requirement and necessary to meet emergency needs pursuant to sections 403(a) and 423(b) of S. Con. Res. 13 (111th Congress), the concurrent resolution on the budget for fiscal year 2010.

GENERAL PROVISIONS—THIS TITLE

SEC. 701. Public Law 111–8, division E, title III, Department of Health and Human Services, Agency for Toxic Substances and Disease Registry, Toxic Substances and Environmental Public Health is amended by inserting ''per eligible employee'' after ''$1,000''.

SEC. 702. (a) Section 1606 of division A, title XVI of Public Law 111–5 shall not be applied to projects carried out by youth conservation organizations under agreement with the Department of the Interior or the Forest Service for which funds were provided in title VII.

(b) For purposes of this provision, the term ''youth conservation organizations'' means not-for-profit organizations that provide conservation service learning opportunities for youth 16 to 25 years of age.

TITLE VIII

DEPARTMENT OF HEALTH AND HUMAN SERVICES

ADMINISTRATION FOR CHILDREN AND FAMILIES

REFUGEE AND ENTRANT ASSISTANCE

For an additional amount for ''Refugee and Entrant Assistance'' for necessary expenses for unaccompanied alien children as authorized by section 462 of the Homeland Security Act of 2002 and section 235 of the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008, $82,000,000, to remain available through September 30, 2011: Provided, That the amount under this heading is designated as being for overseas deployments and other activities pursuant to sections 401(c)(4) and 423(a) of S. Con. Res. 13 (111th Congress), the concurrent resolution on the budget for fiscal year 2010.

GENERAL PROVISIONS—THIS TITLE

(TRANSFER OF FUNDS)

SEC. 801. Section 801(a) of division A of Public Law 111–5 is amended by inserting '', and may be transferred by the Department of Labor to any other account within the Department for such purposes'' before the end period.

(INCLUDING TRANSFER OF FUNDS)

SEC. 802. (a) Notwithstanding any other provision of law, during the period from September 1 through September 30, 2009, the Secretary of Education shall transfer to the Career, Technical, and Adult Education account an amount not to exceed $17,678,270 from amounts that would otherwise lapse at the end of fiscal year 2009 and that were originally made available under the Department of Education Appropriations Act, 2009 or any Department of Education Appropriations Act for a previous fiscal year.

(b) Funds transferred under this section to the Career, Technical, and Adult Education account shall be obligated by September 30, 2009.

(c) Any amounts transferred pursuant to this section shall be for carrying out Adult Education State Grants, and shall be allocated, notwithstanding any other provision of law, only to those States that received funds under that program for fiscal year 2009 that were at least 9.9 percent less than those States received under that program for fiscal year 2008.

(d) The Secretary shall use these additional funds to increase those States' allocations under that program up to the amount they received under that program for fiscal year 2008.

(e) The Secretary shall notify the Committees on Appropriations of both Houses of Congress of any transfer pursuant to this section.

TITLE IX

LEGISLATIVE BRANCH

CAPITOL POLICE

GENERAL EXPENSES

For an additional amount for ''Capitol Police, General Expenses'', $71,606,000, to purchase and install a new radio system for the U.S. Capitol Police, to remain available until September 30, 2012: Provided, That the Chief of the Capitol Police may not obligate any of the funds appropriated under this heading without approval of an obligation plan by the Committees on Appropriations of the Senate and the House of Representatives.

CONGRESSIONAL BUDGET OFFICE

SALARIES AND EXPENSES

For an additional amount for ''Salaries and Expenses'', $2,000,000, to remain available until September 30, 2010.

GENERAL PROVISION—THIS TITLE

SEC. 901. The amount available to the Committee on the Judiciary for expenses, including salaries, under section 13(b) of Senate Resolution 73, agreed to March 10, 2009, is increased by $500,000.

TITLE X

MILITARY CONSTRUCTION

MILITARY CONSTRUCTION, ARMY

(INCLUDING RESCISSION)

For an additional amount for ''Military Construction, Army'', $1,229,731,000, to remain available until September 30, 2013: Provided, That notwithstanding any other provision of law, such funds may be obligated and expended to carry out planning and design and military construction projects not otherwise authorized by law: Provided further, That none of the funds provided under this heading for military construction projects in Afghanistan shall be obligated or expended until the Secretary of Defense certifies to the Committees on Appropriations of both Houses of Congress that a prefinancing statement for each project has been submitted to the North Atlantic Treaty Organization (NATO) for consideration of funding by the NATO Security Investment Program.

For an additional amount for ''Military Construction, Army'', $49,000,000, to remain available until September 30, 2013: Provided, That notwithstanding any other provision of law, such funds may be obligated and expended to carry out planning and design and military construction projects not otherwise authorized by law: Provided further, That the preceding amount in this paragraph is designated as an emergency requirement and necessary to meet emergency needs pursuant to sections 403(a) and 423(b) of S. Con. Res. 13 (111th Congress), the concurrent resolution on the budget for fiscal year 2010: Provided further, That of the funds appropriated for ''Military Construction, Army'' under Public Law 110–252, $49,000,000 are hereby rescinded.

MILITARY CONSTRUCTION, NAVY AND MARINE CORPS

For an additional amount for ''Military Construction, Navy and Marine Corps'', $243,083,000, to remain available until September 30, 2013: Provided, That notwithstanding any other provision of law, such funds may be obligated and expended to carry out planning and design and military construction projects not otherwise authorized by law.

MILITARY CONSTRUCTION, AIR FORCE

For an additional amount for ''Military Construction, Air Force'', $265,470,000, to remain available until September 30, 2013: Provided, That notwithstanding any other provision of law, such funds may be obligated and expended to carry out planning and design and military construction projects not otherwise authorized by law: Provided further, That none of the funds provided under this heading for military construction projects in Afghanistan shall be obligated or expended until the Secretary of Defense certifies to the Committees on Appropriations of both Houses of Congress that a prefinancing statement for each project has been submitted to the North Atlantic Treaty Organization (NATO) for consideration of funding by the NATO Security Investment Program.

MILITARY CONSTRUCTION, DEFENSE-WIDE

For an additional amount for ''Military Construction, Defense-Wide'', $181,500,000, to remain available until September 30, 2013: Provided, That notwithstanding any other provision of law, such funds may be obligated and expended to carry out planning and design and military construction projects not otherwise authorized by law: Provided further, That $1,781,500,000 is hereby authorized for fiscal years 2009 through 2013 for the purposes of this appropriation.

NORTH ATLANTIC TREATY ORGANIZATION SECURITY INVESTMENT PROGRAM

For an additional amount for ''North Atlantic Treaty Organization Security Investment Program'', $100,000,000, to remain available until expended: Provided, That notwithstanding any other provision of law, such funds are authorized for the North Atlantic Treaty Security Investment Program for purposes of section 2806 of title 10, United States Code, and section 2502 of the Military Construction Authorization Act for Fiscal Year 2009 (division B of Public Law 110–417).

DEPARTMENT OF DEFENSE BASE CLOSURE ACCOUNT 2005

For deposit into the Department of Defense Base Closure Account 2005, established by section 2906A(a)(1) of the Defense Base Closure and Realignment Act of 1990 (10 U.S.C. 2687 note), $230,900,000, to remain available until expended: Provided, That notwithstanding any other provision of law, such funds may be obligated and expended to carry out operation and maintenance, planning and design and military construction projects not otherwise authorized by law.

GENERAL PROVISIONS—THIS TITLE

SEC. 1001. None of the funds appropriated in this or any other Act may be used to disestablish, reorganize, or relocate the Armed Forces Institute of Pathology, except for the Armed Forces Medical Examiner, until the President has established, as required by section 722 of the National Defense Authorization Act for Fiscal Year 2008 (Public Law 110–181; 122 Stat. 199; 10 U.S.C. 176 note), a Joint Pathology Center, and the Joint Pathology Center is demonstrably performing the minimum requirements set forth in section 722 of the National Defense Authorization Act for Fiscal Year 2008.

SEC. 1002. (a) IN GENERAL.—Unless otherwise designated, each amount in this title is designated as being for overseas deployments and other activities pursuant to sections 401(c)(4) and 423(a) of S. Con. Res. 13 (111th Congress), the concurrent resolution on the budget for fiscal year 2010.

(b) EXCEPTION.—Subsection (a) shall not apply to any amount under the heading ''Military Construction, Defense-Wide''.

TITLE XI

DEPARTMENT OF STATE

ADMINISTRATION OF FOREIGN AFFAIRS

DIPLOMATIC AND CONSULAR PROGRAMS

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for ''Diplomatic and Consular Programs'', $645,444,000, to remain available until September 30, 2010, of which $117,983,000 is for World Wide Security Protection and shall remain available until expended: Provided, That the Secretary of State may transfer up to $135,629,000 of the total funds made available under this heading to any other appropriation of any department or agency of the United States, upon the concurrence of the head of such department or agency, to support operations in and assistance for Afghanistan and to carry out the provisions of the Foreign Assistance Act of 1961: Provided further, That of the funds appropriated under this heading, not more than $10,000,000 for public diplomacy activities may be transferred to, and merged with, funds made available under the heading ''International Broadcasting Operations'' for broadcasting activities to the Pakistan-Afghanistan border region: Provided further, That of the funds appropriated under this heading, $57,000,000 shall be made available for aircraft acquisition, maintenance, operations and leases in Afghanistan for the Department of State and the United States Agency for International Development (USAID), and the uses and oversight of such aircraft shall be the responsibility of the United States Chief of Mission in Afghanistan: Provided further, That of the funds made available pursuant to the previous proviso, $40,000,000 shall be transferred to, and merged with, funds made available under the heading ''United States Agency for International Development, Funds Appropriated to the President, Operating Expenses'' for the purpose of USAID's air services: Provided further, That such aircraft utilized by USAID may be used to transport Federal and non-Federal personnel supporting USAID programs and activities: Provided further, That official travel of other agencies for other purposes may be supported on a reimbursable basis, or without reimbursement when traveling on a space available basis.

OFFICE OF INSPECTOR GENERAL

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for ''Office of Inspector General'', $22,200,000, to remain available until September 30, 2010, of which $7,000,000 shall be transferred to the Special Inspector General for Iraq Reconstruction for reconstruction oversight, and $7,200,000 shall be transferred to the Special Inspector General for Afghanistan Reconstruction for reconstruction oversight: Provided, That the Special Inspector General for Afghanistan Reconstruction may exercise the authorities of subsections (b) through (i) of section 3161 of title 5, United States Code (without regard to subsection (a) of such section) for funds made available for fiscal years 2009 and 2010.

EMBASSY SECURITY, CONSTRUCTION, AND MAINTENANCE

For an additional amount for ''Embassy Security, Construction, and Maintenance'', $820,500,000, to remain available until expended, for worldwide security upgrades, acquisition, and construction as authorized, and shall be made available for secure diplomatic facilities and housing for United States mission staff in Afghanistan and Pakistan, and for mobile mail screening units.

INTERNATIONAL ORGANIZATIONS

CONTRIBUTIONS FOR INTERNATIONAL PEACEKEEPING ACTIVITIES

For an additional amount for ''Contributions for International Peacekeeping Activities'', $721,000,000, to remain available until September 30, 2010.

UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT

FUNDS APPROPRIATED TO THE PRESIDENT

OPERATING EXPENSES

For an additional amount for ''Operating Expenses'', $112,600,000, to remain available until September 30, 2010.

CAPITAL INVESTMENT FUND

For an additional amount for ''Capital Investment Fund'', $48,500,000, to remain available until expended.

OFFICE OF INSPECTOR GENERAL

For an additional amount for ''Office of Inspector General'', $3,500,000, to remain available until September 30, 2010, for oversight of programs in Afghanistan and Pakistan.

BILATERAL ECONOMIC ASSISTANCE

FUNDS APPROPRIATED TO THE PRESIDENT

GLOBAL HEALTH AND CHILD SURVIVAL

For an additional amount for ''Global Health and Child Survival'', $50,000,000, to remain available until September 30, 2010, notwithstanding any other provision of law, except for the United States Leadership Against HIV/AIDS, Tuberculosis and Malaria Act of 2003 (Public Law 108–25), for a United States contribution to the Global Fund to Fight AIDS, Tuberculosis and Malaria.

DEVELOPMENT ASSISTANCE

For an additional amount for ''Development Assistance'', $38,000,000, to remain available until September 30, 2010, for assistance for Kenya.

INTERNATIONAL DISASTER ASSISTANCE

For an additional amount for ''International Disaster Assistance'', $245,000,000, to remain available until expended.

ECONOMIC SUPPORT FUND

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for ''Economic Support Fund'', $2,828,000,000, to remain available until September 30, 2010: Provided, That of the funds appropriated under this heading, not less than $866,000,000 may be made available for assistance for Afghanistan, of which not less than $100,000,000 shall be made available to support programs that directly address the needs of Afghan women and girls, including for the Afghan Independent Human Rights Commission, the Afghan Ministry of Women's Affairs, and for women-led nongovernmental organizations: Provided further, That of the funds appropriated under this heading, not less than $115,000,000 shall be made available for the Afghan Reconstruction Trust Fund, of which not less than $70,000,000 shall be made available for the National Solidarity Program: Provided further, That of the funds appropriated under this heading, not less than $11,000,000 shall be made available for the Afghan Civilian Assistance Program: Provided further, That of the funds appropriated under this heading, not less than $439,000,000 shall be made available for assistance for Pakistan, of which not more than $215,000,000 shall be made available for economic growth programs, including basic education to counter the influence of madrassas; not less than $50,000,000 shall be made available for assistance for internally displaced persons; and not less than $10,000,000 shall be made available for democracy programs, including to strengthen democratic political parties: Provided further, That of the funds appropriated under this heading that are available for assistance for Afghanistan and Pakistan, not less than $20,000,000 shall be made available for a cross border development program to be administered by the Special Representative for Afghanistan and Pakistan at the Department of State: Provided further, That of the funds appropriated under this heading, not less than $439,000,000 shall be made available for assistance for Iraq, of which not less than $50,000,000 shall be for the Community Action Program and not less than $10,000,000 shall be for the Marla Ruzicka Iraqi War Victims Fund: Provided further, That of the funds appropriated under this heading, not less than $150,000,000 shall be made available for assistance for Jordan to mitigate the impact of the global economic crisis, including for health, education, water and sanitation, and other assistance for Iraqi and other refugees in Jordan: Provided further, That of the funds appropriated under this heading, not less than $15,000,000 shall be made available for assistance for Yemen; not less than $10,000,000 shall be made available for assistance for Somalia; and not less than $10,000,000 shall be made available for programs and activities to assist victims of gender-based violence in the Democratic Republic of the Congo: Provided further, That funds made available pursuant to the previous proviso shall be administered by the United States Agency for International Development: Provided further, That none of the funds appropriated in this title for democracy and civil society programs may be made available for the construction of facilities in the United States.

ASSISTANCE FOR EUROPE, EURASIA, AND CENTRAL ASIA

For an additional amount for ''Assistance for Europe, Eurasia and Central Asia'', $230,000,000, to remain available until September 30, 2010, of which $200,000,000 may be made available for assistance for Georgia and other Eurasian countries: Provided, That of the funds appropriated under this heading, $30,000,000 may be made available for assistance for the Kyrgyz Republic to provide a long-range air traffic control and safety system to support air operations in the Kyrgyz Republic, including at Manas International Airport, notwithstanding any other provision of law.

DEPARTMENT OF STATE

INTERNATIONAL NARCOTICS CONTROL AND LAW ENFORCEMENT

For an additional amount for ''International Narcotics Control and Law Enforcement'', $393,500,000, to remain available until September 30, 2010: Provided, That of the funds appropriated under this heading, not more than $109,000,000 may be made available for assistance for the West Bank and not more than $66,000,000 may be made available for assistance for Mexico.

NONPROLIFERATION, ANTI-TERRORISM, DEMINING AND RELATED PROGRAMS

For an additional amount for ''Nonproliferation, Anti-Terrorism, Demining and Related Programs'', $102,000,000, to remain available until September 30, 2010: Provided, That of this amount, not more than $77,000,000, to remain available until expended, may be made available for the Nonproliferation and Disarmament Fund, notwithstanding any other provision of law, of which not more than $50,000,000 may be made available to enhance security along the Gaza border: Provided further, That the Secretary of State shall work assiduously to facilitate the regular flow of people and licit goods in and out of Gaza at established border crossings and shall submit a report to the Committees on Appropriations not later than 45 days after enactment of this Act, and every 45 days thereafter until September 30, 2010, detailing progress in this effort.

MIGRATION AND REFUGEE ASSISTANCE

For an additional amount for ''Migration and Refugee Assistance'', $345,000,000, to remain available until expended.

INTERNATIONAL SECURITY ASSISTANCE

FUNDS APPROPRIATED TO THE PRESIDENT

PEACEKEEPING OPERATIONS

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for ''Peacekeeping Operations'', $172,900,000, to remain available until September 30, 2010, of which $155,900,000 may be made available to support the African Union Mission to Somalia and which may be transferred to, and merged with, funds appropriated under the heading ''Contributions for International Peacekeeping Activities'' for peacekeeping in Somalia: Provided, That of the funds appropriated under this heading, $15,000,000 shall be made available for assistance for the Democratic Republic of the Congo and $2,000,000 shall be made available for the Multinational Force and Observer mission in the Sinai.

INTERNATIONAL MILITARY EDUCATION AND TRAINING

For an additional amount for ''International Military Education and Training'', $2,000,000, to remain available until September 30, 2010, for assistance for Iraq.

FOREIGN MILITARY FINANCING PROGRAM

For an additional amount for ''Foreign Military Financing Program'', $98,000,000, to remain available until September 30, 2009, for assistance for Lebanon.

GENERAL PROVISIONS—THIS TITLE

AFGHANISTAN

SEC. 1101. (a) IN GENERAL.—Funds appropriated under the heading ''Economic Support Fund'' that are available for assistance for Afghanistan shall be made available, to the maximum extent practicable, in a manner that utilizes Afghan entities and emphasizes the participation of Afghan women and directly improves the security, economic and social well-being, and political status, of Afghan women and girls.

(b) LIMITATION ON CONTRACTS AND GRANTS.—Funds appropriated under the heading ''Economic Support Fund'' that are available for assistance for Afghanistan shall not be used to initiate or make an amendment to any contract, grant or cooperative agreement in an amount exceeding $10,000,000.

(c) ASSISTANCE FOR WOMEN AND GIRLS.—

(1) Of the funds appropriated under the heading ''International Narcotics Control and Law Enforcement'' that are available for assistance for Afghanistan, not less than $10,000,000 shall be made available to train and support Afghan women investigators, police officers, prosecutors and judges with responsibility for investigating, prosecuting, and punishing crimes of violence against women and girls.

(2) Of the funds appropriated under the heading ''Economic Support Fund'' that are available for assistance for Afghanistan, not less than $5,000,000 shall be made available for capacity building for Afghan women-led nongovernmental organizations, and not less than $25,000,000 shall be made available to support programs and activities of such organizations, including to provide legal assistance and training for Afghan women and girls about their rights, and to promote women's health (including mental health), education, and leadership.

(d) ANTICORRUPTION.—Ten percent of the funds appropriated under the heading ''International Narcotics Control and Law Enforcement'' that are available for assistance for the Government of Afghanistan shall be withheld from obligation until the Secretary of State reports to the Committees on Appropriations that the Government of Afghanistan is implementing a policy to promptly remove from office any government official who is credibly alleged to have engaged in narcotics trafficking, gross violations of human rights, or other major crimes.

(e) ACQUISITION OF PROPERTY.—Not more than $10,000,000 of the funds appropriated in this title may be made available to pay for the acquisition of property for diplomatic facilities in Afghanistan.

(f) UNITED NATIONS DEVELOPMENT PROGRAM.—None of the funds appropriated in this title may be made available for programs and activities of the United Nations Development Program (UNDP) in Afghanistan unless the Secretary of State reports to the Committees on Appropriations that UNDP is fully cooperating with efforts of the United States Agency for International Development (USAID) to investigate expenditures by UNDP of USAID funds associated with the Quick Impact Program in Afghanistan, and has agreed to reimburse USAID, if appropriate.

(g) TRAINING IN CIVILIAN-MILITARY COORDINATION.—The Secretary of State, in consultation with the Secretary of Defense and the Administrator of the United States Agency for International Development, shall seek to ensure that civilian personnel assigned to serve in Afghanistan receive civilian-military coordination training that focuses on counterinsurgency and stability operations, and shall submit a report to the Committees on Appropriations and Foreign Relations of the Senate and the Committees on Appropriations and Foreign Affairs of the House of Representatives not later than 90 days after the date of the enactment of this Act detailing how such training addresses current and future civilian-military coordination requirements.

ALLOCATIONS

SEC. 1102. (a) Funds appropriated in this title for the following accounts shall be made available for programs and countries in the amounts contained in the respective tables included in the report accompanying this Act:

(1) ''Diplomatic and Consular Programs''.

(2) ''Embassy Security, Construction, and Maintenance''.

(3) ''Economic Support Fund''.

(4) ''International Narcotics Control and Law Enforcement''.

(b) For the purposes of implementing this section, and only with respect to the tables included in the report accompanying this Act, the

Secretary of State and the Administrator of the United States Agency for International Development, as appropriate, may propose deviations to the amounts referenced in subsection (a), subject to the regular notification procedures of the Committees on Appropriations and section 634A of the Foreign Assistance Act of 1961.

BURMA

SEC. 1103. (a) Funds appropriated under the heading ''Economic Support Fund'' for humanitarian assistance for Burma may be made available notwithstanding any other provision of law.

(b) Not later than 30 days after enactment of this Act, the Secretary of State shall submit to the Committees on Appropriations a report that details the findings and recommendations of the Department of State's review of United States policy toward Burma.

EXTENSION OF AUTHORITIES

SEC. 1104. Funds appropriated in this title may be obligated and expended notwithstanding section 10 of Public Law 91–672, section 15 of the State Department Basic Authorities Act of 1956, section 313 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103–236), and section 504(a)(1) of the National Security Act of 1947 (50 U.S.C. 414(a)(1)).

GLOBAL FINANCIAL CRISIS

SEC. 1105. (a) IN GENERAL.—Of the funds appropriated under the heading ''Economic Support Fund'', not more than $285,000,000 may be made available for assistance for vulnerable populations in developing countries severely affected by the global financial crisis: Provided, That funds made available pursuant to this section may be obligated only after the Administrator of the United States Agency for International Development (USAID) submits a report to the Committees on Appropriations detailing a spending plan for each such country including criteria for eligibility, proposed amounts and purposes of assistance, and mechanisms for monitoring the uses of such assistance, and indicating that USAID has reviewed its existing programs in such country to determine reprogramming opportunities to increase assistance for vulnerable populations: Provided further, That funds made available pursuant to this section shall be transferred to, and merged with, the following accounts:

(1) Not less than $12,000,000 for the ''Development Credit Authority'', for the cost of direct loans and loan guarantees notwithstanding the dollar limitations in such account on transfers to the account and the principal amount of loans made or guaranteed with respect to any single country or borrower: Provided, That such transferred funds may be made available to subsidize total loan principal, any portion of which is to be guaranteed, of up to $3,300,000,000: Provided further, That the authority provided in this subsection is in addition to authority provided under the heading ''Development Credit Authority'' in Public Law 111–8: Provided further, That and up to $1,500,000 may be made available for administrative expenses to carry out credit programs administered by the United States Agency for International Development; and

(2) Not more than $20,000,000 for the ''Overseas Private Investment Corporation Program Account'', notwithstanding section 708(b) of Public Law 111–8: Provided, That such funds shall not be available for administrative expenses of the Overseas Private Investment Corporation.

(b) REPROGRAMMING AUTHORITY.—Notwithstanding any other provision of law and in addition to funds otherwise available for such purposes, funds appropriated under the heading ''Millennium Challenge Corporation'' (MCC) in prior Acts making appropriations for the Department of State, foreign operations, export financing, and related programs may be transferred to, and merged with, funds appropriated under the heading ''Economic Support Fund'' that are made available pursuant to this section.

(1) The authority contained in subsection (b) may only be exercised for a country that has signed a compact with the MCC or has been designated by the MCC as a threshold country, and such a reprogramming of funds should be made, if practicable, prior to making available additional assistance for such purposes.

(2) The MCC shall consult with the Committees on Appropriations prior to exercising the authority of this subsection.

IRAQ

SEC. 1106. (a) IN GENERAL.—Funds appropriated in this title that are available for assistance for Iraq shall be made available, to the maximum extent practicable, in a manner that utilizes Iraqi entities.

(b) MATCHING REQUIREMENT.—Funds appropriated in this title for assistance for Iraq shall be made available in accordance with the Department of State's April 9, 2009, ''Guidelines for Government of Iraq Financial Participation in United States Government-Funded Civilian Foreign Assistance Programs and Projects''.

(c) OTHER ASSISTANCE.—Of the funds appropriated in this title under the heading ''Economic Support Fund'', not less than $20,000,000 shall be made available for targeted development programs and activities in areas of conflict in Iraq, and the responsibility for policy decisions and justifications for the use of such funds shall be the responsibility of the United States Chief of Mission in Iraq.

PROHIBITION ON ASSISTANCE FOR HAMAS

SEC. 1107. (a) None of the funds appropriated in this title may be made available for assistance to Hamas, or any entity effectively controlled by Hamas or any power-sharing government of which Hamas is a member.

(b) Notwithstanding the limitation of subsection (a), assistance may be provided to a power-sharing government only if the President certifies and reports to the Committees on Appropriations that such government, including all of its ministers or such equivalent, has publicly accepted and is complying with the principles contained in section 620K(b)(1)(A) and (B) of the Foreign Assistance Act of 1961, as amended.

(c) The President may exercise the authority in section 620K(e) of the Foreign Assistance Act as added by the Palestinian Anti-Terrorism Act of 2006 (Public Law 109–446) with respect to this subsection.

(d) Whenever the certification pursuant to subsection (b) is exercised, the Secretary of State shall submit a report to the Committees on Appropriations within 120 days of the certification and every quarter thereafter on whether such government, including all of its ministers or such equivalent, are continuing to comply with the principles contained in section 620K(b)(1)(A) and (B). The report shall also detail the amount, purposes and delivery mechanisms for any assistance provided pursuant to the abovementioned certification and a full accounting of any direct support of such government.

MEXICO

SEC. 1108. (a) Not later than 60 days after enactment of this Act, the Secretary of State shall submit a report to the Committees on Appropriations detailing actions taken by the Government of Mexico since June 30, 2008, to investigate and prosecute violations of internationally recognized human rights by members of the Mexican Federal police and military forces, and to support a thorough, independent, and credible investigation of the murder of American citizen Bradley Roland Will.

(b) None of the funds appropriated in this title may be made available for the cost of fuel for helicopters provided to Mexico, or for logistical support, including operations and maintenance, of aircraft purchased by the Government of Mexico.

(c) In order to enhance border security and cooperation in law enforcement efforts between Mexico and the United States, funds appropriated in this title that are available for assistance for Mexico may be made available for the procurement of law enforcement communications equipment only if such equipment utilizes open standards and is compatible with, and capable of operating with, radio communications systems and related equipment utilized by Federal law enforcement agencies in the United States to enhance border security and cooperation in law enforcement efforts between Mexico and the United States.

MULTILATERAL DEVELOPMENT BANK REPLENISHMENTS

SEC. 1109. (a) INTERNATIONAL DEVELOPMENT ASSOCIATION.—The International Development Association Act (22 U.S.C. 284 et seq.) is amended by adding at the end thereof the following:

''SEC. 24. FIFTEENTH REPLENISHMENT.

''(a) The United States Governor of the International Development Association is authorized to contribute on behalf of the United States $3,705,000,000 to the fifteenth replenishment of the resources of the Association, subject to obtaining the necessary appropriations.

''(b) In order to pay for the United States contribution provided for in subsection (a), there are authorized to be appropriated, without fiscal year limitation, $3,705,000,000 for payment by the Secretary of the Treasury.

''SEC. 25. MULTILATERAL DEBT RELIEF.

''(a) The Secretary of the Treasury is authorized to contribute, on behalf of the United States, not more than $356,000,000 to the International Development Association for the purpose of funding debt relief under the Multilateral Debt Relief Initiative in the period governed by the fifteenth replenishment of resources of the International Development Association, subject to obtaining the necessary appropriations and without prejudice to any funding arrangements in existence on the date of the enactment of this section.

''(b) In order to pay for the United States contribution provided for in subsection (a), there are authorized to be appropriated, without fiscal year limitation, not more than $356,000,000 for payment by the Secretary of the Treasury.

''(c) In this section, the term 'Multilateral Debt Relief Initiative' means the proposal set out in the G8 Finance Ministers' Communique entitled 'Conclusions on Development,' done at London, June 11, 2005, and reaffirmed by G8 Heads of State at the Gleneagles Summit on July 8, 2005.''.

(b) AFRICAN DEVELOPMENT FUND.—The African Development Fund Act (22 U.S.C. 290 et seq.) is amended by adding at the end thereof the following:

''SEC. 219. ELEVENTH REPLENISHMENT.

''(a) The United States Governor of the Fund is authorized to contribute on behalf of the United States $468,165,000 to the eleventh replenishment of the resources of the Fund, subject to obtaining the necessary appropriations.

''(b) In order to pay for the United States contribution provided for in subsection (a), there are authorized to be appropriated, without fiscal year limitation, $468,165,000 for payment by the Secretary of the Treasury.

''SEC. 220. MULTILATERAL DEBT RELIEF INITIATIVE.

''(a) The Secretary of the Treasury is authorized to contribute, on behalf of the United States, not more than $26,000,000 to the African Development Fund for the purpose of funding debt relief under the Multilateral Debt Relief Initiative in the period governed by the eleventh replenishment of resources of the African Development Fund, subject to obtaining the necessary appropriations and without prejudice to any funding arrangements in existence on the date of the enactment of this section.

''(b) In order to pay for the United States contribution provided for in subsection (a), there are authorized to be appropriated, without fiscal year limitation, not more than $26,000,000 for payment by the Secretary of the Treasury.''.

PROMOTION OF POLICY GOALS AT THE WORLD BANK GROUP

SEC. 1110. Title XVI of the International Financial Institutions Act (22 U.S.C. 262p et seq.) is amended by adding at the end thereof the following:

''SEC. 1626. REFORM OF THE 'DOING BUSINESS' REPORT OF THE WORLD BANK.

''(a) The Secretary of the Treasury shall instruct the United States Executive Directors at the International Bank for Reconstruction and Development, the International Development Association, and the International Finance Corporation of the following United States policy goals, and to use the voice and vote of the United States to actively promote and work to achieve these goals:

''(1) Suspension of the use of the 'Employing Workers' Indicator for the purpose of ranking or scoring country performance in the annual Doing Business Report of the World Bank until a set of indicators can be devised that fairly represent the value of internationally recognized workers' rights, including core labor standards, in creating a stable and favorable environment for attracting private investment. The indicators shall bring to bear the experiences of the member governments in dealing with the economic, social and political complexity of labor market issues. The indicators should be developed through collaborative discussions with and between the World Bank, the International Finance Corporation, the International Labor Organization, private companies, and labor unions.

''(2) Elimination of the 'Labor Tax and Social Contributions' Subindicator from the annual Doing Business Report of the World Bank.

''(3) Removal of the 'Employing Workers' Indicator as a 'guidepost' for calculating the annual Country Policy and Institutional Assessment score for each recipient country.

''(b) Within 60 days after the date of the enactment of this section, the Secretary of the Treasury shall provide an instruction to the United States Executive Directors referred to in subsection (a) to take appropriate actions with respect to implementing the policy goals of the United States set forth in subsection (a), and such instruction shall be posted on the website of the Department of the Treasury.

''SEC. 1627. ENHANCING THE TRANSPARENCY AND EFFECTIVENESS OF THE INSPECTION PANEL PROCESS OF THE WORLD BANK.

''(a) ENHANCING TRANSPARENCY IN IMPLEMENTATION OF MANAGEMENT ACTION PLANS.—The Secretary of the Treasury shall direct the United States Executive Directors at the World Bank to seek to ensure that World Bank Procedure 17.55, which establishes the operating procedures of Management with regard to the Inspection Panel, provides that Management prepare and make available to the public semiannual progress reports describing implementation of Action Plans considered by the Board; allow and receive comments from Requesters and other Affected Parties for two months after the date of disclosure of the progress reports; post these comments on World Bank and Inspection Panel websites (after receiving permission from the requestors to post with or without attribution); submit the reports to the Board with any comments received; and make public the substance of any actions taken by the Board after Board consideration of the reports.

''(b) SAFEGUARDING THE INDEPENDENCE AND EFFECTIVENESS OF THE INSPECTION PANEL.—The Secretary of the Treasury shall direct the United States Executive Directors at the World Bank to continue to promote the independence and effectiveness of the Inspection Panel, including by seeking to ensure the availability of, and access by claimants to, the Inspection Panel for projects supported by World Bank resources.

''(c) EVALUATION OF COUNTRY SYSTEMS.—The Secretary of the Treasury shall direct the United States Executive Directors at the World Bank to request an evaluation by the Independent Evaluation Group on the use of country environmental and social safeguard systems to determine the degree to which, in practice, the use of such systems provides the same level of protection at the project level as do the policies and procedures of the World Bank.

''(d) WORLD BANK DEFINED.—In this section, the term 'World Bank' means the International Bank for Reconstruction and Development and the International Development Association.''.

CLIMATE CHANGE MITIGATION AND GREENHOUSE GAS ACCOUNTING

SEC. 1111. Title XIII of the International Financial Institutions Act (22 U.S.C. 262m et seq.) is amended by adding at the end thereof the following:

''SEC. 1308. CLIMATE CHANGE MITIGATION AND GREENHOUSE GAS ACCOUNTING.

''(a) USE OF GREENHOUSE GAS ACCOUNTING.—The Secretary of the Treasury shall seek to ensure that multilateral development banks (as defined in section 1701(c)(4) of this Act) adopt and implement greenhouse gas accounting in analyzing the benefits and costs of individual projects (excluding those with de minimus greenhouse gas emissions) for which funding is sought from the bank.

''(b) EXPANSION OF CLIMATE CHANGE MITIGATION ACTIVITIES.—The Secretary of the Treasury shall work to ensure that the multilateral development banks (as defined in section 1701(c)(4)) expand their activities supporting climate change mitigation by—

''(1) significantly expanding support for investments in energy efficiency and renewable energy, including zero carbon technologies;

''(2) reviewing all proposed infrastructure investments to ensure that all opportunities for integrating energy efficiency measures have been considered;

''(3) increasing the dialogue with the governments of developing countries regarding—

''(A) analysis and policy measures needed for low carbon emission economic development; and

''(B) reforms needed to promote private sector investments in energy efficiency and renewable energy, including zero carbon technologies; and

''(4) integrate low carbon emission economic development objectives into multilateral development bank country strategies.

''(c) REPORT TO CONGRESS.—Not later than 1 year after the date of the enactment of this section, and annually thereafter, the Secretary of the Treasury shall submit a report on the status of efforts to implement this section to the Committee on Foreign Relations and the Committee on Appropriations of the Senate and the Committee on Financial Services and the Committee on Appropriations of the House of Representatives.''.

MULTILATERAL DEVELOPMENT BANK REFORM

SEC. 1112. (a) BUDGET DISCLOSURE.—The Secretary of the Treasury shall seek to ensure that the multilateral development banks make timely, public disclosure of their operating budgets including expenses for staff, consultants, travel and facilities.

(b) EVALUATION.—The Secretary of the Treasury shall seek to ensure that multilateral development banks rigorously evaluate the development impact of selected bank projects, programs, and financing operations, and emphasize use of random assignment in conducting such evaluations, where appropriate and to the extent feasible.

(c) EXTRACTIVE INDUSTRIES.—The Secretary of the Treasury shall direct the United States Executive Directors at the multilateral development banks to promote the endorsement of the Extractive Industry Transparency Initiative (EITI) by these institutions and the integration of the principles of the EITI into extractive industry-related projects that are funded by the multilateral development banks.

(d) REPORT.—Not later than September 30, 2009, the Secretary of the Treasury shall submit a report to the Committee on Appropriations and the Committee on Foreign Relations of the Senate, and the Committee on Appropriations and the Committee on Foreign Affairs of the House, detailing actions taken by the multilateral development banks to achieve the objectives of this section.

(e) COORDINATION OF DEVELOPMENT POLICY.—The Secretary of the Treasury shall coordinate the formulation and implementation of United States policy relating to the development activities of the World Bank Group with the Secretary of State, the Administrator of the United States Agency for International Development, and other Federal agencies, as appropriate.

OVERSEAS COMPARABILITY PAY ADJUSTMENT

SEC. 1113. (a) Subject to such regulations prescribed by the Secretary of State, including with respect to phase-in schedule and treatment as basic pay, and notwithstanding any other provision of law, funds appropriated for this fiscal year in this or any other Act may be used to pay an eligible member of the Foreign Service as defined in subsection (b) of this section a locality-based comparability payment (stated as a percentage) up to the amount of the locality-based comparability payment (stated as a percentage) that would be payable to such member under section 5304 of title 5, United States Code if such member's official duty station were in the District of Columbia.

(b) A member of the Service shall be eligible for a payment under this section only if the member is designated class 1 or below for purposes of section 403 of the Foreign Service Act of 1980 (22 U.S.C. 3963) and the member's official duty station is not in the continental United States or in a non-foreign area, as defined in section 591.205 of title 5, Code of Federal Regulations.

(c) The amount of any locality-based comparability payment that is paid to a member of the Foreign Service under this section shall be subject to any limitations on pay applicable to locality-based comparability payments under section 5304 of title 5, United States Code.

ASSESSMENT ON AFGHANISTAN AND PAKISTAN

SEC. 1114. (a) FINDING.—The Congress supports economic and security assistance for Afghanistan and Pakistan, but long-term stability and security in those countries is tied more to the capacity and conduct of the Afghan and Pakistani governments and the resolve of both societies for peace and stability, to include combating extremist networks, than it is to the policies of the United States.

(b) REPORT.—The President shall submit a report to the appropriate congressional committees, not later than 90 days after the date of enactment of this Act and every 6 months thereafter until September 30, 2010, in classified form if necessary, assessing the extent to which the Afghan and Pakistani governments are demonstrating the necessary commitment, capability, conduct and unity of purpose to warrant the continuation of the President's policy announced on March 27, 2009, to include:

(1) The level of political consensus and unity of purpose across ethnic, tribal, religious and political party affiliations to confront the political and security challenges facing the region;

(2) The level of official corruption that undermines such political consensus and unity of purpose, and actions taken to eliminate it;

(3) The actions taken by the respective security forces and appropriate government entities in developing a counterinsurgency capability, conducting counterinsurgency operations, and establishing security and governance on the ground;

(4) The actions taken by the respective intelligence agencies in cooperating with the United

States on counterinsurgency and counterterrorism operations and in terminating policies and programs, and removing personnel, that provide material support to extremist networks that target United States troops or undermine United States objectives in the region;

(5) The ability of the Afghan and Pakistani governments to effectively control and govern the territory within their respective borders; and

(6) The ways in which United States Government assistance contributed, or failed to contribute, to achieving the goals outlined above.

(c) POLICY ASSESSMENT.—The President, on the basis of information gathered and coordinated by the National Security Council, shall advise the Congress on how such assessment requires, or does not require, changes to such policy.

(d) DEFINITION.—For purposes of this section, ''appropriate congressional committees'' means the Committees on Appropriations, Foreign Relations and Armed Services of the Senate, and the Committees on Appropriations, Foreign Affairs and Armed Services of the House of Representatives.

ASSISTANCE FOR PAKISTAN

SEC. 1115. (a) FINDINGS.—

(1) The United States and the international community have welcomed and supported Pakistan's return to civilian rule since the democratic elections of February 18, 2008;

(2) Since 2001, the United States has provided more than $12,000,000,000 in economic and security assistance to Pakistan;

(3) Afghanistan and Pakistan are facing grave threats to their internal security from a growing insurgency fueled by al Qaeda, the Taliban and other violent extremist groups operating in areas along the Afghanistan-Pakistan border; and

(4) The United States is committed to supporting vigorous efforts by the Government of Pakistan to secure Pakistan's western border and counter violent extremism, expand government services, support economic development, combat corruption and uphold the rule of law in such areas.

(b) REPORT.—Not later than 90 days after enactment of this Act, the Secretary of State shall submit a report, in classified form if necessary, to the Committees on Appropriations detailing—

(1) a spending plan for the proposed uses of funds appropriated in this title under the headings ''Economic Support Fund'' and ''International Narcotics Control and Law Enforcement'' that are available for assistance for Pakistan including amounts, the purposes for which funds are to be made available, and intended results;

(2) the actions to be taken by the United States and the Government of Pakistan relating to such assistance;

(3) the metrics for measuring progress in achieving such results; and

(4) the mechanisms for monitoring such funds.

SPECIAL AUTHORITY

SEC. 1116. (a) Notwithstanding any other provision of law, funds appropriated under the headings ''Global HIV/AIDS Initiative'' or ''Global Health and Child Survival'' in prior Acts making appropriations for the Department of State, foreign operations, export financing and related programs for assistance for Kenya to carry out the President's Emergency Plan for AIDS Relief may be transferred to, and merged with, funds made available under the heading ''Economic Support Fund'' to respond to instability in Kenya arising from conflict or civil strife.

(b) The Secretary of State shall consult with the Committees on Appropriations prior to exercising the authority of this section.

SPENDING PLAN AND NOTIFICATION PROCEDURES

SEC. 1117. (a) SPENDING PLAN.—Not later than 45 days after the enactment of this Act, the Secretary of State, in consultation with the Administrator of the United States Agency for International Development, shall submit to the Committees on Appropriations a report detailing planned expenditures for funds appropriated in this title, except for funds appropriated under the headings ''International Disaster Assistance'' and ''Migration and Refugee Assistance''.

(b) NOTIFICATION.—Funds appropriated in this title, with the exception of funds appropriated under the headings ''International Disaster Assistance'' and ''Migration and Refugee Assistance'', shall be subject to the regular notification procedures of the Committees on Appropriations and section 634A of the Foreign Assistance Act of 1961.

TECHNICAL PROVISIONS

SEC. 1118. (a) MODIFICATIONS.—The funding limitation in section 7046(a) of Public Law 111–8 shall not apply to funds made available for assistance for Colombia through the United States Agency for International Development's Office of Transition Initiatives: Provided, That title III of division H of Public Law 111–8 is amended under the heading ''Economic Support Fund'' in the second proviso by striking ''up to $20,000,000'' and inserting ''not less than $20,000,000''.

(b) NOTIFICATION REQUIREMENT.—Funds appropriated by this Act that are transferred to the Department of State or the United States Agency for International Development shall be subject to the regular notification procedures of the Committees on Appropriations, notwithstanding any other provision of law.

(c) AUTHORITY.—Funds appropriated in this title, and subsequent and prior acts appropriating funds for Department of State, Foreign Operations, and Related Programs and under the heading ''Public Law 480 Title II Grants'' in this, subsequent, and prior Acts appropriating funds for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies, shall be made available notwithstanding the requirements of and amendments made by section 3511 of Public Law 110–417.

(d) REEMPLOYMENT OF ANNUITANTS.—

(1) Section 824 of the Foreign Service Act of 1980 (22 U.S.C. 4064) is amended in subsection (g)(1)(B) by inserting '', Pakistan,'' after ''Iraq'' each place it appears; by inserting ''to positions in the Response Readiness Corps,'' before ''or to posts vacated''; and, in subsection (g)(2) by striking ''2009'' and inserting instead ''2012''.

(2) Section 61 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2733) is amended in subsection (a)(1) by adding '', Pakistan,'' after ''Iraq'' each place it appears; by inserting '', to positions in the Response Readiness Corps,'' before ''or to posts vacated''; and, in subsection (a)(2) by striking ''2008'' and inserting instead ''2012''.

(3) Section 625 of the Foreign Assistance Act of 1961 (22 U.S.C. 2385) is amended in subsection (j)(1)(A) by adding '', Pakistan,'' after ''Iraq'' each place it appears; by inserting '', to positions in the Response Readiness Corps,'' before ''or to posts vacated''; and, in subsection (J)(1)(B) by striking ''2008'' and inserting instead ''2012''.

(e) INCENTIVES FOR CRITICAL POSTS.—Notwithstanding sections 5753(a)(2)(A) and 5754(a)(2)(A) of title 5, United States Code, appropriations made available by this or any other Act may be used to pay recruitment, relocation, and retention bonuses under chapter 57 of title 5, United States Code to members of the Foreign Service, other than chiefs of mission and ambassadors at large, who are on official duty in Iraq, Afghanistan, or Pakistan. This authority shall terminate on October 1, 2012.

(f) Of the funds appropriated under the heading ''Foreign Military Financing Program'' in Public Law 110–161 that are available for assistance for Colombia, $500,000 may be transferred to, and merged with, funds appropriated under the heading ''International Narcotics Control and Law Enforcement'' to provide medical and rehabilitation assistance for members of Colombian security forces who have suffered severe injuries.

TERMS AND CONDITIONS

SEC. 1119. Unless otherwise provided for in this Act, funds appropriated or otherwise made available in this title shall be available under the authorities and conditions provided in the Department of State, Foreign Operations, and Related Programs Appropriations Act, 2009 (division H of Public Law 111–8), except that sections 7042(a) and (c) and 7070(e)(2) of such Act shall not apply to such funds.

OVERSEAS DEPLOYMENTS

SEC. 1120. Each amount in this title is designated as being for overseas deployments and other activities pursuant to sections 401(c)(4) and 423(a) of S. Con. Res. 13 (111th Congress), the concurrent resolution on the budget for fiscal year 2010.

AFGHANISTAN AND PAKISTAN POLICY

SEC. 1121. (a) OBJECTIVES FOR AFGHANISTAN AND PAKISTAN.—Not later than 60 days after the date of the enactment of this Act, the President shall develop and submit to the appropriate committees of Congress the following:

(1) A clear statement of the objectives of United States policy with respect to Afghanistan and Pakistan.

(2) Metrics to be utilized to assess progress toward achieving the objectives developed under paragraph (1).

(b) REPORTS.—

(1) IN GENERAL.—Not later than March 30, 2010 and every 120 days thereafter until September 30, 2011, the President, in consultation with Coalition partners as appropriate, shall submit to the appropriate committees of Congress a report setting forth the following:

(A) A description and assessment of the progress of United States Government efforts, including those of the Department of Defense, the Department of State, the United States Agency for International Development, and the Department of Justice, in achieving the objectives for Afghanistan and Pakistan developed under subsection (a)(1).

(B) Any modification of the metrics developed under subsection (a)(2) in light of circumstances in Afghanistan or Pakistan, together with a justification for such modification.

(C) Recommendations for the additional resources or authorities, if any, required to achieve such objectives for Afghanistan and Pakistan.

(2) FORM.—Each report under this subsection may be submitted in classified or unclassified form. Any report submitted in classified form shall include an unclassified annex or summary of the matters contained in the report.

(3) APPROPRIATE COMMITTEES OF CONGRESS DEFINED.—In this subsection, the term ''appropriate committees of Congress'' means—

(A) the Committees on Armed Services, Appropriations, Foreign Relations, Homeland Security and Governmental Affairs, and the Judiciary and the Select Committee on Intelligence of the Senate; and

(B) the Committees on Armed Services, Appropriations, Foreign Affairs, Homeland Security, and the Judiciary and the Permanent Select Committee on Intelligence of the House of Representatives.

ADDITIONAL AMOUNT FOR ASSISTANCE FOR GEORGIA

SEC. 1122. The amount appropriated by this title under the heading ''Assistance for Europe, Eurasia and Central Asia'' may be increased by up to $42,500,000, with the amount of the increase to be available for assistance for Georgia.

TITLE XII

DEPARTMENT OF TRANSPORTATION

OFFICE OF THE SECRETARY

PAYMENTS TO AIR CARRIERS

(AIRPORT AND AIRWAY TRUST FUND)

In addition to funds made available under Public Law 111–8 and funds authorized under subsection 41742(a)(1) of title 49, United States Code, to carry out the essential air service program, to be derived from the Airport and Airway Trust Fund, $13,200,000, to remain available until expended.

FEDERAL AVIATION ADMINISTRATION

GRANTS-IN-AID FOR AIRPORTS

(AIRPORT AND AIRWAY TRUST FUND)

(RESCISSION)

Of the amounts authorized under sections 48103 and 48112 of title 49, United States Code, $13,200,000 are permanently rescinded from amounts authorized for the fiscal year ending September 30, 2008.

GENERAL PROVISIONS—THIS TITLE

SEC. 1201. Section 1937 of Public Law 109–59 (119 Stat. 1144, 1510) is amended—

(1) in paragraph (1) by striking ''expenditures'' each place that it appears and inserting ''allocations''; and

(2) in paragraph (2) by striking ''expenditure'' and inserting ''allocation''.

SEC. 1202. A recipient and subrecipient of funds appropriated in Public Law 111–5 and apportioned pursuant to section 5311 and section 5336 (other than subsection (i)(1) and (j)) of title 49, United States Code, may use up to 10 percent of the amount apportioned for the operating costs of equipment and facilities for use in public transportation: Provided, That a grant obligating such funds prior to the date of the enactment of this Act may be amended to allow a recipient and subrecipient to use the funds made available for operating assistance: Provided further, That such funds are designated as an emergency requirement pursuant to section 403 of S. Con. Res. 13 (111th Congress), the concurrent resolution on the budget for fiscal year 2010.

SEC. 1203. Public Law 110–329, under the heading ''Project-Based Rental Assistance'', is amended by striking ''project-based vouchers'' and all that follows up to the period and inserting ''activities and assistance for the provision of tenant-based rental assistance, including related administrative expenses, as authorized under the United States Housing Act of 1937, as amended (42 U.S.C. 1437 et seq.), $80,000,000, to remain available until expended: Provided, That such funds shall be made available within 60 days of the enactment of this Act: Provided further, That in carrying out the activities authorized under this heading, the Secretary shall waive section (o)(13)(B) of the United States Housing Act of 1937 (42 U.S.C. 1437f(o)(13)(B))'': Provided, That such additional funds are designated as an emergency requirement pursuant to section 403 of S. Con. Res. 13 (111th Congress), the concurrent resolution on the budget for fiscal year 2010.

SEC. 1204. Public Law 111–5 is amended by striking the second proviso under the heading ''HOME Investment Partnerships Program'' and inserting ''Provided further, That the housing credit agencies in each State shall distribute these funds competitively under this heading and pursuant to their qualified allocation plan (as defined in section 42(m) of the Internal Revenue Code of 1986) to owners of projects who have received or receive simultaneously an award of low-income housing tax credits under sections 42(h) and 1400N of the Internal Revenue Code of 1986:''.

TITLE XIII

OTHER MATTERS

INTERNATIONAL ASSISTANCE PROGRAMS

INTERNATIONAL MONETARY PROGRAMS

UNITED STATES QUOTA, INTERNATIONAL MONETARY FUND

For an increase in the United States quota in the International Monetary Fund, the dollar equivalent of 4,973,100,000 Special Drawing Rights, to remain available until expended: Provided, That the cost of the amounts provided herein shall be determined as provided under the Federal Credit Reform Act of 1990 (2 U.S.C. 661 et. seq.): Provided further, That for purposes of section 502(5) of the Federal Credit Reform Act of 1990, the discount rate in section 502(5)(E) shall be adjusted for market risks: Provided further, That section 504(b) of the Federal Credit Reform Act of 1990 (2 U.S.C. 661c(b)) shall not apply.

LOANS TO INTERNATIONAL MONETARY FUND

For loans to the International Monetary Fund under section 17(a)(ii) and (b)(ii) of the Bretton Woods Agreements Act (Public Law 87–490, 22 U.S.C. 286e–2), as amended by this Act pursuant to the New Arrangements to Borrow, the dollar equivalent of up to 75,000,000,000 Special Drawing Rights, to remain available until expended, in addition to any amounts previously appropriated under section 17 of such Act: Provided, That if the United States agrees to an expansion of its credit arrangement in an amount less than the dollar equivalent of 75,000,000,000 Special Drawing Rights, any amount over the United States' agreement shall not be available until further appropriated: Provided further, That the cost of the amounts provided herein shall be determined as provided under the Federal Credit Reform Act of 1990 (2 U.S.C. 661 et. seq.): Provided further, That for purposes of section 502(5) of the Federal Credit Reform Act of 1990, the discount rate in section 502(5)(E) shall be adjusted for market risks: Provided further, That section 504(b) of the Federal Credit Reform Act of 1990 (2 U.S.C. 661c(b)) shall not apply.

GENERAL PROVISIONS—INTERNATIONAL ASSISTANCE PROGRAMS

SEC. 1301. Section 17 of the Bretton Woods Agreements Act (22 U.S.C. 286e–2) is amended—

(1) in subsection (a)—

(A) by inserting ''(1)'' before ''In order to''; and

(B) by adding at the end the following:

''(2) In order to carry out the purposes of a one-time decision of the Executive Directors of the International Monetary Fund (the Fund) to expand the resources of the New Arrangements to Borrow, established pursuant to the decision of January 27, 1997 referred to in paragraph (1) above, and to make other amendments to the New Arrangements to Borrow to achieve an expanded and more flexible New Arrangements to Borrow as contemplated by paragraph 17 of the G–20 Leaders' Statement of April 2, 2009 in London, the Secretary of the Treasury is authorized to instruct the United States Executive Director to consent to such amendments notwithstanding subsection (d) of this section, and to make loans, in an amount not to exceed the dollar equivalent of 75,000,000,000 Special Drawing Rights, in addition to any amounts previously authorized under this section and limited to such amounts as are provided in advance in appropriations Acts, except that prior to activation, the Secretary of the Treasury shall report to Congress on whether supplementary resources are needed to forestall or cope with an impairment of the international monetary system and whether the Fund has fully explored other means of funding, to the Fund under article VII, section 1(i), of the Articles of Agreement of the Fund: Provided, That prior to instructing the United States Executive Director to provide consent to such amendments, the Secretary of the Treasury shall consult with the Committee on Foreign Relations and the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives on the amendments to be made to the New Arrangements to Borrow, including guidelines and criteria governing the use of its resources; the countries that have made commitments to contribute to the New Arrangements to Borrow and the amount of such commitments; and the steps taken by the United States to expand the number of countries so the United States share of the expanded New Arrangements to Borrow is representative of its share as of the date of enactment of this Act: Provided further, That any loan under the authority granted in this subsection shall be made with due regard to the present and prospective balance of payments and reserve position of the United States.''.

and

(2) in subsection (b)—

(A) by inserting ''(1)'' before ''For the purpose of'';

(B) by inserting ''subsection (a)(1) of'' after ''pursuant to''; and

(C) by adding at the end the following:

''(2) For the purpose of making loans to the International Monetary Fund pursuant to subsection (a)(2) of this section, there is hereby authorized to be appropriated not to exceed the dollar equivalent of 75,000,000,000 Special Drawing Rights, in addition to any amounts previously authorized under this section, except that prior to activation, the Secretary of the Treasury shall report to Congress on whether supplementary resources are needed to forestall or cope with an impairment of the international monetary system and whether the Fund has fully explored other means of funding, to remain available until expended to meet calls by the Fund. Any payments made to the United States by the Fund as a repayment on account of the principal of a loan made under this section shall continue to be available for loans to the Fund.''.

SEC. 1302. The Bretton Woods Agreements Act (22 U.S.C. 286 et seq.) is amended by adding at the end the following:

''SEC. 64. ACCEPTANCE OF AMENDMENTS TO THE ARTICLES OF AGREEMENT OF THE FUND.

''The United States Governor of the Fund may agree to and accept the amendments to the Articles of Agreement of the Fund as proposed in the resolutions numbered 63–2 and 63–3 of the Board of Governors of the Fund which were approved by such Board on April 28, 2008 and May 5, 2008, respectively.

''SEC. 65. QUOTA INCREASE.

''(a) IN GENERAL.—The United States Governor of the Fund may consent to an increase in the quota of the United States in the Fund equivalent to 4,973,100,000 Special Drawing Rights.

''(b) SUBJECT TO APPROPRIATIONS.—The authority provided by subsection (a) shall be effective only to such extent or in such amounts as are provided in advance in appropriations Acts.

''SEC. 66. APPROVAL TO SELL A LIMITED AMOUNT OF THE FUND'S GOLD.

''(a) The Secretary of the Treasury is authorized to instruct the United States Executive Director of the Fund to vote to approve the sale of up to 12,965,649 ounces of the Fund's gold acquired since the second Amendment to the Fund's Articles of Agreement, only if such sales are consistent with the guidelines agreed to by the Executive Board of the Fund described in the Report of the Managing Director to the International Monetary and Financial Committee on a New Income and Expenditure Framework for the International Monetary Fund (April 9, 2008) to prevent disruption to the world gold market: Provided, That at least 30 days prior to any such vote, the Secretary shall consult with the Committee on Foreign Relations and the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of

Representatives regarding the use of proceeds from the sale of such gold: Provided further, That the Secretary of the Treasury shall seek to ensure that:

''(1) the Fund will provide support to low-income countries that are eligible for the Poverty Reduction and Growth Facility or other low-income lending from the Fund by making available Fund resources of not less than $4 billion;

''(2) such Fund resources referenced above will be used to leverage additional support by a significant multiple to provide loans with substantial concessionality and debt service payment relief and/or grants, as appropriate to a country's circumstances:

''(3) support provided through forgiveness of interest on concessional loans will be provided for not less than two years; and

''(4) the support provided to low-income countries occurs within six years, a substantial amount of which shall occur within the initial two years.

''(b) In addition to agreeing to and accepting the amendments referred to in section 64 of this Act relating to the use of proceeds from the sale of such gold, the United States Governor is authorized, consistent with subsection (a), to take such actions as may be necessary, including those referred to in section 5(e) of this Act, to also use such proceeds for the purpose of assisting low-income countries.

''SEC. 67. ACCEPTANCE OF AMENDMENT TO THE ARTICLES OF AGREEMENT OF THE FUND.

''The United States Governor of the Fund may agree to and accept the amendment to the Articles of Agreement of the Fund as proposed in the resolution numbered 54–4 of the Board of Governors of the Fund which was approved by such Board on October 22, 1997: Provided, That not more than one year after the acceptance of such amendments to the Fund's Articles of Agreement, the Secretary of the Treasury shall submit a report to the Committee on Foreign Relations and the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives analyzing Special Drawing Rights, to include a discussion of how those countries that significantly use or acquire Special Drawing Rights in accordance with Article XIX, Section 2(c), use or acquire them; the extent to which countries experiencing balance of payment difficulties exchange or use their Special Drawing Rights to acquire reserve currencies; and the manner in which those reserve currencies are acquired when utilizing Special Drawing Rights.''.

SEC. 1303. (a) Not later than 30 days after enactment of this Act, the Secretary of the Treasury, in consultation with the Executive Director of the World Bank and the Executive Board of the International Monetary Fund (IMF), shall submit a report to the appropriate congressional committees detailing the steps taken to coordinate the activities of the World Bank and the IMF to avoid duplication of missions and programs, and steps taken by the Department of the Treasury and the IMF to increase the oversight and accountability of IMF activities.

(b) For the purposes of this section, the ''appropriate congressional committees'' means the Committees on Appropriations, Banking, Housing, and Urban Affairs, and Foreign Relations of the Senate, and the Committees on Appropriations, Foreign Affairs, and Ways and Means of the House of Representatives.

(c) In the next report to Congress on international economic and exchange rate policies, the Secretary of the Treasury shall: (1) report on ways in which the IMF's surveillance function under Article IV could be enhanced and made more effective in terms of avoiding currency manipulation; (2) report on the feasibility and usefulness of publishing the IMF's internal calculations of indicative exchange rates; and (3) provide recommendations on the steps that the IMF can take to promote global financial stability and conduct effective multilateral surveillance.

(d) The Secretary of the Treasury shall instruct the United States Executive Director of the International Monetary Fund to use the voice and vote of the United States to oppose any loan, project, agreement, memorandum, instrument, plan, or other program of the Fund to a Heavily Indebted Poor Country that imposes budget caps or restraints that do not allow the maintenance of or an increase in governmental spending on health care or education; and to promote government spending on health care, education, food aid, or other critical safety net programs in all of the Fund's activities with respect to Heavily Indebted Poor Countries.

SEC. 1304. Each amount in this title is designated as being for overseas deployments and other activities pursuant to sections 401(c)(4) and 423(a) of S. Con. Res. 13 (111th Congress), the concurrent resolution on the budget for fiscal year 2010.

DETAINEE PHOTOGRAPHIC RECORDS PROTECTION

SEC. 1305. (a) SHORT TITLE.—This section may be cited as the ''Detainee Photographic Records Protection Act of 2009''.

(b) DEFINITIONS.—In this section:

(1) COVERED RECORD.—The term ''covered record'' means any record—

(A) that is a photograph that was taken between September 11, 2001 and January 22, 2009 relating to the treatment of individuals engaged, captured, or detained after September 11, 2001, by the Armed Forces of the United States in operations outside of the United States; and

(B) for which a certification by the Secretary of Defense under subsection (c) is in effect.

(2) PHOTOGRAPH.—The term ''photograph'' encompasses all photographic images, whether originals or copies, including still photographs, negatives, digital images, films, video tapes, and motion pictures.

(c) CERTIFICATION.—

(1) IN GENERAL.—For any photograph described under subsection (b)(1)(A), the Secretary of Defense shall certify, if the Secretary of Defense, in consultation with the Chairman of the Joint Chiefs of Staff, determines that the disclosure of that photograph would endanger—

(A) citizens of the United States; or

(B) members of the Armed Forces or employees of the United States Government deployed outside the United States.

(2) CERTIFICATION EXPIRATION.—A certification submitted under paragraph (1) and a renewal of a certification submitted under paragraph (3) shall expire 3 years after the date on which the certification or renewal, as the case may be, is submitted to the President.

(3) CERTIFICATION RENEWAL.—The Secretary of Defense may submit to the President—

(A) a renewal of a certification in accordance with paragraph (1) at any time; and

(B) more than 1 renewal of a certification.

(4) CERTIFICATION RENEWAL.—A timely notice of the Secretary's certification shall be provided to Congress.

(d) NONDISCLOSURE OF DETAINEE RECORDS.—A covered record shall not be subject to—

(1) disclosure under section 552 of title 5, United States Code (commonly referred to as the Freedom of Information Act); or

(2) disclosure under any proceeding under that section.

(e) Nothing in this section shall be construed to preclude the voluntary disclosure of a covered record.

(f) EFFECTIVE DATE.—This section shall take effect on the date of enactment of this Act and apply to any photograph created before, on, or after that date that is a covered record.

SHORT TITLE

SEC. 1306. This section may be cited as the ''OPEN FOIA Act of 2009''.

SPECIFIC CITATIONS IN STATUTORY EXEMPTIONS

SEC. 1307. Section 552(b) of title 5, United States Code, is amended by striking paragraph (3) and inserting the following:

''(3) specifically exempted from disclosure by statute (other than section 552b of this title), if that statute—

''(A)(i) requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue; or

''(ii) establishes particular criteria for withholding or refers to particular types of matters to be withheld; and

''(B) if enacted after the date of enactment of the OPEN FOIA Act of 2009, specifically cites to this paragraph.''.

GENERAL PROVISION—THIS ACT

AVAILABILITY OF FUNDS

SEC. 1308. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

This Act may be cited as the ''Supplemental Appropriations Act, 2009''.

SMOKY MOUNTAINS NATIONAL PARK 75TH ANNIVERSARY

Mr. UDALL of Colorado. Madam President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of S. Res. 137 and the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 137) recognizing and commending the people of the Great Smoky Mountains National Park on the 75th anniversary of the establishment of the park.

There being no objection, the Senate proceeded to consider the resolution.

Mr. UDALL of Colorado. I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, and the motion to reconsider be laid upon the table.

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

The resolution (S. Res. 137) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 137

Whereas, in the 1920s, groups of citizens and officials in Western North Carolina and Eastern Tennessee displayed enormous foresight in recognizing the potential benefits of a national park in the Southern Appalachian Mountains;

Whereas the location of the park that became the Great Smoky Mountains National Park was selected from among the finest examples of the most scenic and intact mountain forests in the Southeastern United States;

Whereas the creation of the Great Smoky Mountains National Park was the product of more than 2 decades of determined effort by leaders of communities across Western North Carolina and Eastern Tennessee;

Whereas the State legislatures and Governors of North Carolina and Tennessee exercised great vision in appropriating the funding that was used, along with funding from the Laura Spelman Rockefeller Memorial Fund, to purchase more than 400,000 acres of private land that became part of the Great Smoky Mountains National Park;

Whereas the citizens of communities surrounding the Great Smoky Mountains National Park generously contributed funding for land acquisition to bring the Great Smoky Mountains National Park into being;

Whereas more than 1,100 families and other property owners were called upon to sacrifice their farms and homes for the benefit and enjoyment of future generations that would visit the Great Smoky Mountains National Park;

Whereas the Great Smoky Mountains National Park was established as a completed park by the Act entitled ''An Act to establish a minimum area for the Great Smoky Mountains National Park, and for other purposes'', approved June 15, 1934 (16 U.S.C. 403g);

Whereas the Great Smoky Mountains National Park covers approximately 521,621 acres of land in the States of Tennessee and North Carolina, making it the largest protected area in the Eastern United States;

Whereas the Great Smoky Mountains National Park provides sanctuary for the most diverse flora and fauna of any national park in the temperate United States, and preserves an unparalleled collection of historic structures as a ''time capsule'' of Appalachian culture during the 19th and early 20th centuries;

Whereas, on September 2, 1940, President Franklin D. Roosevelt dedicated the Great Smoky Mountains National Park;

Whereas the Great Smoky Mountains National Park has been the most popular national park in the United States since it opened, and attracts between 9,000,000 and 10,000,000 visitors each year, making it the most visited of the 58 national parks in the United States; and

Whereas visitors to the Great Smoky Mountains National Park contribute more than $700,000,000 to the local economy each year, resulting in more than 14,000 jobs in North Carolina and Tennessee: Now, therefore, be it

Resolved, That the Senate—

(1) commends the citizens of Western North Carolina and Eastern Tennessee for their vision and sacrifice;

(2) commends the people of the Great Smoky Mountains National Park and the National Park Service for 75 years of successful management and preservation of the park land;

(3) congratulates the people of the Great Smoky Mountains National Park on the 75th anniversary of the park; and

(4) requests the Secretary of the Senate to transmit an enrolled copy of this resolution for appropriate display to the headquarters of the Great Smoky Mountains National Park.

COMMEMORATING THE END OF COMMUNIST RULE IN POLAND

Mr. UDALL of Colorado. Madam President, I ask unanimous consent that the Committee on Foreign Relations be discharged from further consideration of S. Res. 139 and the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 139) commemorating the 20th anniversary of the end of communist rule in Poland.

There being no objection, the Senate proceeded to consider the resolution.

Mr. UDALL of Colorado. I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table, with no intervening action or debate, and any statements relating to the resolution be printed in the RECORD.

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

The resolution (S. Res. 139) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 139

Whereas in January 1947, the communist Democratic Bloc party seized control of the Polish Parliament in a rigged election orchestrated by the Government of the Soviet Union;

Whereas, from 1947 to 1952, the communist Government of Poland prosecuted, imprisoned, and executed many individuals who fought as part of the wartime Underground Resistance, an organization that valiantly supported the Allied struggle against Nazi Germany as part of the largest resistance movement in occupied Europe;

Whereas in July 1952, the passage of a new constitution formally created the communist People's Republic of Poland and outlawed any non-communist candidate from seeking office to represent the people of Poland;

Whereas during the ensuing years of communist rule, the people of Poland suffered severe hardships because of the communist-led government's failure to provide for the basic economic needs of its people;

Whereas under communist rule, Polish intellectuals, religious leaders, labor officials, students, and reformers were imprisoned and exiled for speaking out against a succession of increasingly corrupt, inefficient, and repressive pro-Soviet puppets;

Whereas despite the harsh repression of the communist-led government and the great personal risk they faced, the Polish people struggled for freedom by staging strikes, publishing underground newspapers, organizing street protests, and speaking out against the economic and political failures of the communist regime;

Whereas in August 1980, in the wake of a shipyard workers' strike in Gdansk, the Solidarity Movement was created as the first free trade union in the Soviet Bloc nations;

Whereas ultimately 1 in 4 Polish citizens became members of the Solidarity movement, which served as the driving force for Poland's liberation from communist rule;

Whereas, on June 4, 1989, the Solidarity Party secured an overwhelming victory over the existing communist government in the first open election in Poland since the end of World War II, marking the fall of pro-Soviet rule in Poland; and

Whereas this victory inspired a succession of similarly peaceful transitions from communism to democracy in other former Soviet Bloc nations: Now, therefore, be it

Resolved, That the Senate—

(1) celebrates the 20th anniversary of the end of communist rule in Poland;

(2) expresses its admiration for the people of Poland for their bravery and resolve in the face of economic hardship and political oppression under communist rule;

(3) congratulates the people of Poland for their accomplishments in the years since the end of pro-Soviet communist rule in building a free democracy, and for their contributions as international partners;

(4) expresses its appreciation for the close friendship between the Government of the United States and the Government of Poland; and

(5) urges the Government of the United States to continue to seek new ways to enhance its partnership with the Government of Poland.

RECOGNIZING FOUNDING OF BREAD FOR THE WORLD

Mr. UDALL of Colorado. Madam President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration and the Senate now proceed to S. Res. 157.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 157) recognizing Bread for the World on the 35th anniversary of its founding, for its faithful advocacy on behalf of poor and hungry people in our country and around the world.

There being no objection, the Senate proceeded to consider the resolution.

Mr. UDALL of Colorado. Madam President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, and the motion to reconsider be laid upon the table.

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

The resolution (S. Res. 157) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 157

Whereas Bread for the World, now under the leadership of the Reverend David Beckmann, has grown in size and influence, and is now the largest grassroots advocacy network on hunger issues in the United States and on behalf of impoverished people overseas;

Whereas members of Bread for the World believe that by addressing policies, programs, and conditions that allow hunger and poverty to persist, they are providing help and opportunity far beyond the communities in which they live;

Whereas Bread for the World has inspired the engagement of hundreds of thousands of individuals, more than 8,000 congregations, and more than 50 denominations across the religious spectrum to seek justice for hungry and poor people by making our Nation's laws more fair and compassionate to people in need;

Whereas members of Bread for the World use hand-written letters and other personalized forms of communication to convey to their legislators their moral concern for the needs of mothers, children, small farmers, and other hungry and poor people; and

Whereas Bread for the World has a strong record of success in working with Congress to—

(1) strengthen our national nutrition programs;

(2) establish and fund the Child Survival account that has helped reduce child mortality rates worldwide;

(3) increase and improve the Nation's poverty-focused development assistance to help developing countries in Africa and other underprivileged parts of the world;

(4) pass the Africa: Seeds of Hope Act of 1998 that redirected United States resources toward small-scale farmers and struggling rural communities in Africa;

(5) lead an effort to provide debt relief to the world's poorest countries and tie debt relief to poverty reduction; and

(6) establish an emergency grain reserve to improve the Nation's response to humanitarian crises: Now, therefore, be it

Resolved, That the Senate—

(1) recognizes and commends Bread for the World, on the 35th anniversary of its founding, for its encouragement of citizen engagement, its advocacy for poor and hungry people, and its successes as a collective voice; and

(2) challenges Bread for the World to continue its work to address world hunger.

AUTHORIZING PRINTING OF A COLLECTION OF THE RULES OF THE SENATE COMMITTEES

Mr. UDALL of Colorado. Madam President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 166, submitted earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 166) to authorize printing of a collection of the rules of the committees of the Senate.

There being no objection, the Senate proceeded to consider the resolution.

Mr. UDALL of Colorado. I ask unanimous consent the resolution be agreed to, the motion to reconsider be laid upon the table with no intervening action or debate, and any statements related to the resolution be printed in the RECORD.

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

The resolution (S. Res. 166) was agreed to, as follows:

S. RES. 166

Resolved, That a collection of the rules of the committees of the Senate, together with related materials, be printed as a Senate document, and that there be printed 300 additional copies of such document for the use of the Committee on Rules and Administration.

YEAR OF THE MILITARY FAMILY

Mr. UDALL of Colorado. Madam President, I ask unanimous consent the Senate proceed to the immediate consideration of S. Res. 165, submitted earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 165) to encourage the recognition of 2009 as the ''Year of the Military Family.''

There being no objection, the Senate proceeded to consider the resolution.

Mr. LEVIN. Madam President, there are more than 1.8 million family members of active duty servicemembers and an additional 1.1 million family members of reserve component members. Every one of these families makes sacrifices each and every day along with their servicemember and plays a very significant role in serving our country.

Military families often face unique challenges and difficulties throughout their loved one's career, including frequent relocations to bases across the country and overseas as well as the various demands stemming from continued deployments of members from every service. The Nation must ensure that all the needs of military dependent children and spouses are being met. The life of a military family member has never been an easy one, but in our 8th year of war, families are facing even more hardships.

Deployments are an undeniable strain on families. While a servicemember is away, spouses are often forced into the role of a single parent—juggling employment, child care, and household duties each and every day, all the while living with the pressure of having a family member deployed to a combat zone. Families are an integral part of the force, and stress on the force affects overall readiness.

Servicemembers will experience less stress in the field if they are assured their families are well taken care of back home. And it is imperative that families remain as resilient as possible in order to provide a stable environment for loved ones when they return home from those deployments. Families are often the first line of defense against posttraumatic stress and suicide, but may be experiencing similar feelings themselves. We must ensure that families and servicemembers have timely access to mental health resources and programs. We must make every dependent aware of the resources available to them to assist in everything from finances to job placement to health care and counseling.

Thousands of military family members have taken it upon themselves to confront these challenges by volunteering to provide critical assistance during deployments to servicemembers, their spouses, and children, as well as giving vital support to families relocating to a new area. And sadly, many families have made the ultimate sacrifice in the loss of a servicemember who proudly defended our Nation.

We in Congress have tried to do our part to help, and have made family support programs and initiatives a priority. In recent bills we have called for: the establishment of a Department of Defense Military Family Readiness Council; education, training, and tuition assistance to help spouses maintain careers; respite care for parents caring for children on their own due to deployments; authorized increased levels of Impact Aid for military dependents' education; and established and supported the nationwide expansion of the Department's Yellow Ribbon Reintegration Program which is aimed at helping members and families of the Guard and Reserve. But there is still more to do.

With President and Mrs. Obama placing the support of our military families among their top priorities, we must take this opportunity to renew our commitment and express our deepest appreciation to military family members who bravely serve this Nation alongside their servicemembers. It is my hope that this Year of the Military Family inspires us, the Department of Defense, the military Services, and Americans everywhere to commit to helping military families and servicemembers in any way we can, and to ensure that these strong men, women, and children are given the recognition, appreciation, and support that they so truly deserve.

Mr. MCCAIN. Madam President, it is my privilege to support S. Res. 165, a resolution encouraging the recognition of 2009 as the ''Year of the Military Family.'' I am honored to be an original cosponsor of this resolution, along with my colleagues on the Committee on Armed Services, Senator LEVIN, Senator BEN NELSON and Senator GRAHAM.

Our Nation is honored by the brave men and women who selflessly risk their lives for our freedom, and by their families, who accept risks, both known and unknown, in support of their country and loved ones who serve. The programs and resources our Nation provides must match the quality of the service and sacrifice of military families. That is why I and others fought so hard to include a special provision in the post-9/11 G.I. bill to allow career service members the opportunity to share the educational benefits that they earn with their immediate family members.

Many military families are distinguished by generations, who have served, from the American Revolution, to the American Civil War, World Wars, Korea, Vietnam, the first gulf war and recent conflicts. The resolution before us today recognizes the contributions and resilience of all military families, and especially those who have endured multiple deployments, or the loss of a loved one who answered the call to service and paid the ultimate price in defense of our Nation.

SFC Kimberly Hazelgrove was serving as an intelligence expert in the U.S. Army when she received the news on January 23, 2004, that her husband, Army CW2 Brian Hazelgrove, had died. His helicopter crashed on its return from a combat mission in northern Iraq. On that tragic day, Kimberly Hazelgrove became a survivor of an American hero. But, like so many whose spouses have died as a consequence of their service to our Nation, she is also a hero in her own right. Kimberly had to abandon her own promising military career to care for four young children. She struggled, with the help of family and friends, to start over—to transition to civilian life, to find employment in which to apply her military skills, and return to school—and with courage and determination she succeeded. Today she balances a new career with the needs of the children that she and Brian had planned to raise, and has never abandoned her selfless advocacy on behalf of survivors of the fallen. Kimberly Hazelgrove represents the essence of service and sacrifice of military families, and I salute her.

Not all military families are defined only as the service member, a spouse,

and children. Many of the young men and women serving our country are unmarried and identify as a family with their parents and siblings. My friend 1LT Andrew Kinard graduated from the Naval Academy in 2005 and chose to lead Marines in Iraq. Andrew deployed as a platoon leader with the Second Marine Division in support of Operation Iraqi Freedom in September 2006. He was gravely wounded by an IED attack while leading a security patrol in Al Anbar Province. His father Harry immediately left his surgical practice so that he could buoy Andrew's spirit through dozens of surgeries that followed. His mother, Mary, remained with Andrew for 5 more months after her husband returned to his medical practice. The separation that Andrew's parents and siblings endured represents a family's selfless sacrifice, to support Andrew and his quality of life even as he faced many surgeries and grueling physical therapy. Andrew Kinard is now a retired marine and will enter Harvard Law School in the fall. The Kinard family represents the unifying, supportive force of a military family that helps a service member survive the most grievous wounds of war, and then get back to the important work of citizenship. I salute them.

MAJ Brian Love is a Green Beret. His family accompanied him to assignment in Germany where, in 2004, their son Patrick was diagnosed with autism. Today Brian and his wife Naomi apply the unique problem solving skills of military special forces to the daily challenge of meeting Patrick's complex needs—a challenge compounded by the rigors of a career as a military leader, and the uncertain limitations of Federal, State and local programs. Major Love has deployed to Iraq twice since 2005. He believes that he is a better leader—that his family relationships are stronger—for having seen the world through the eyes of a child with special needs. Brian is now preparing to assume command of an Army special forces unit and faces the possibility of future deployments. His service, and that of his wife Naomi, honors each of us. Because of their service, and thousands like them, we can all view our victories differently. As an emblem of the dedicated service of military families and to their children, I salute them.

Finally, Mary Scott modestly asserts that hers is a ''normal military family.'' Her father was killed in 1972 in Vietnam; her husband served for 30 years in the U.S. Army; each one of their six children serves their nation in the military today. Kate is an Army captain and lawyer and now serves in Iraq; Karoline, an Air Force captain and public affairs officer; Andy, an Army captain and lawyer who has also deployed to Iraq; 1LT Kerney Scott pilots an Army Blackhawk in Korea; 2LT Alec Scott is a newly commissioned officer in the Army Chaplain Corps, and Cadet Adam Scott, followed his family's well worn path to the U.S. Military Academy. ''It's not unusual,'' Mary says, ''for kids to go into the family business.''

All of those whom I have described and their families, live the values of military service, and enrich us all. They volunteer and advocate on behalf of causes greater than their own. They support one another during challenging times, and find that even in difficulty they are bound more closely together.

I rise in support of the resolution encouraging the recognition of 2009 as the ''Year of the Military Family.'' I salute all military families, and it is to their service that I dedicate my own.

Mr. UDALL of Colorado. I ask unanimous consent the resolution be agreed to, the preamble be agreed to, the motions to reconsider be laid upon the table, with no intervening action or debate, and any statements related to the resolution be printed in the RECORD.

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

The resolution (S. Res. 165) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 165

Whereas there are more than 1.8 million family members of regular component members of the Armed Forces and an additional 1.1 million family members of reserve component members;

Whereas slightly more than half of all members of the regular and reserve components are married, and just over 40 percent of military spouses are 30 years or younger and 60 percent of military spouses are under 36 years of age;

Whereas there are nearly 1.2 million children between the ages of birth and 23 years who are dependents of regular component members, and there are over 713,000 children between such ages who are dependents of reserve component members;

Whereas the largest group of minor children of regular component members consist of children between the ages of birth and 5 years, while the largest group of minor children of reserve component members consist of children between the ages of 6 and 14 years;

Whereas the needs, resources, and challenges confronting a military family, particularly when a member of the family has been deployed, vastly differ between younger age children and children who are older;

Whereas the United States recognizes that military families are also serving their country, and the United States must ensure that all the needs of military dependent children are being met, for children of members of both the regular and reserve components;

Whereas military families often face unique challenges and difficulties that are inherent to military life, including long separations from loved ones, the repetitive demands of frequent deployments, and frequent uprooting of community ties resulting from moves to bases across the country and overseas;

Whereas thousands of military family members have taken on volunteer responsibilities to assist units and members of the Armed Forces who have been deployed by supporting family readiness groups, helping military spouses meet the demands of a single parent during a deployment, or providing a shoulder to cry on or the comfort of understanding;

Whereas military families provide members of the Armed Forces with the strength and emotional support that is needed from the home front for members preparing to deploy, who are deployed, or who are returning from deployment;

Whereas some military families have given the ultimate sacrifice in the loss of a principal family member in defense of the United States; and

Whereas 2009 would be an appropriate year to designate as the ''Year of the Military Family'': Now, therefore be it

Resolved by the Senate, That the Senate—

(1) expresses its deepest appreciation to the families of members of the Armed Forces who serve, or have served, in defense of the United States;

(2) recognizes the contributions that military families make, and encourages the people of the United States to share their appreciation for the sacrifices military families give on behalf of the United States; and

(3) encourages the people of the United States and the Department of Defense to observe the ''Year of Military Family'' with appropriate ceremonies and activities.

DISCHARGE AND REFERRAL—S. 1007

Mr. UDALL of Colorado. Madam President, I ask unanimous consent that the bill S. 1007 be discharged from the Committee on Banking, Housing, and Urban Affairs and it be referred to the Committee on Finance.

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

ORDERS FOR WEDNESDAY, JUNE 3, 2009

Mr. UDALL of Colorado. Madam President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 9:30 a.m., tomorrow, Wednesday, June 3; 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 1 hour, with the Senators permitted to speak 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 the motion to proceed to Calendar No. 47, H.R. 1256, the Family Smoking Prevention and Control Act, and that time during any adjournment, recess or period of morning business count postcloture.

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

PROGRAM

Mr. UDALL of Colorado. Madam President, if we are required to run the entire 30 hours of postcloture debate time, we will not be able to turn to consideration of the FDA tobacco bill until approximately 5:20 p.m. tomorrow. However, we hope to yield back a

portion of that time so we can begin the legislative process on the bill after lunch. Once we are on the bill, Senator DODD will offer the substitute amendment and then the bill will be open to further amendments.

ORDER FOR ADJOURNMENT

Mr. UDALL of Colorado. If there is no further business to come before the Senate, I ask unanimous consent it adjourn under the previous order, following the remarks of Senator BILL NELSON.

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. NELSON of Florida. I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. UDALL of Colorado). Without objection, it is so ordered.

TOBACCO CONTROL

Mr. NELSON of Florida. Mr. President, I rise to speak on the tobacco control act. It has been said over and over—and I want to reassert—that tobacco use is the leading preventable cause of death in the United States. It kills more than 400,000 Americans each year. That is staggering. We think of all the deaths by automobiles. Here tobacco is killing close to half a million people a year. An additional 50,000 a year are dying because of exposure to secondhand smoke.

I will never forget, when I was a kid, flying on airplanes. It was back in the days that people smoked on airplanes. I would come off of the airplane, and I would smell the sleeve of my coat, and it would be total tobacco smoke.

Breaking it down for my State of Florida: 28,000 people die each year in my State alone from tobacco-related illnesses. Despite the risk involved with tobacco consumption, 20 percent of Americans—that is almost 40 million people—still smoke cigarettes. It is tough to break the habit. Fortunately, I have never been a smoker, but I understand people who are. One of them is our President. It is tough to break the habit. I was with him a lot during the campaign, because he was in my State campaigning. He would break out that pack of Nicorette chewing gum. He would go to work on that chewing gum. And more power and more credit to the President for breaking this habit. It is tough.

Here is what is sad. Nearly 90 percent of smokers began as children, and they got addicted by the time they were adults. It is estimated that 3,500 children try cigarettes for the first time each day, and each day 1,000 children become regular smokers. It would really be something if we could change that. Look at what it would save us in health care costs. We are getting ready to mark up in this month, in the Finance Committee and in the HELP Committee, the big health reform package. Think how much money we could save if we didn't have all of these deaths because of tobacco usage. And of course, the health care cost resulting from tobacco use amounts to $96 billion a year, more than $54 billion of which is borne by the Federal Government. We can see that would be staggering, if we had a magic wand and we could stop this health care cost to the country. No wonder our health care costs are so high, if you look at that and the addiction to alcohol and all of the health care costs.

Yet tobacco products are largely an unregulated product. It basically is exempt from requirements to disclose product ingredients and exempt from undergoing product testing. On top of that, manufacturers are able to advertise and market products to youth without the necessary restrictions. At least we have stopped magazine advertisements and TV advertisements. But have my colleagues seen this new kind of candy that is being marketed that is basically to addict children to nicotine? When are we going to put an end to this?

There are a bunch of us who are cosponsoring this bill to give the Food and Drug Administration the authority to regulate the manufacturing, marketing, and sale of tobacco products. This legislation would try to restrict youth smoking by restricting access to tobacco products and prohibit marketing campaigns that specifically target children. If this is such a bad thing and a consequence on the financial condition of the country, isn't that something we ought to stop, targeting children to get them hooked?

What we find is, so many adults were hooked when they were children. This legislation is also going to try to put a bead on consumer safety by requiring full disclosure of the product ingredients—that would have to be disclosed to the Food and Drug Administration—and for the FDA to mandate the elimination of certain ingredients and additives that are going to be put out there for consumers. This bill is going to try to make sure we get adequate and accurate information out to the public by giving the Food and Drug Administration the authority to restrict tobacco marketing, to require stronger warning labels and to regulate the manufacturers' claims about certain products having fewer health risks.

Tobacco use costs us billions of dollars and hundreds of thousands of lives. When are we going to learn? Now is the time for us to step up and try to help protect the public from dangerous products and the very subtle tactics used to get young people addicted to tobacco.

I sure hope we are going to be able to pass this bill and pass it fairly quickly this week.

I yield the floor.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

The PRESIDING OFFICER. Under the previous order, the Senate stands adjourned until 9:30 a.m. tomorrow.

Thereupon, the Senate, at 7:15 p.m., adjourned until Wednesday, June 3, 2009, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate:

DEPARTMENT OF DEFENSE

DANIEL GINSBERG, OF THE DISTRICT OF COLUMBIA, TO BE AN ASSISTANT SECRETARY OF THE AIR FORCE, VICE CRAIG W. DUEHRING.

DEPARTMENT OF STATE

LOUIS B. SUSMAN, OF ILLINOIS, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND.

CONFIRMATION

Executive nomination confirmed by the Senate, Tuesday, June 2, 2009:

ENVIRONMENTAL PROTECTION AGENCY

REGINA MCCARTHY, OF MASSACHUSETTS, TO BE AN ASSISTANT ADMINISTRATOR OF THE ENVIRONMENTAL PROTECTION AGENCY.

THE ABOVE NOMINATION WAS APPROVED SUBJECT TO THE NOMINEE'S COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.