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Senate

The Senate met at 9:31 a.m. and was called to order by the Honorable TOM UDALL, a Senator from the State of New Mexico.

PRAYER

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

Let us pray.

Gracious God, as the morning comes new every day, so are Your blessings new to us. Thank You for the blessing of Your presence that brightens this day, restores our faith, and fills us with peace. Thank You for the blessing of friends who support, encourage, and sustain us. Lord, thank You for the blessing of families who nurture and forgive and undergird us with love.

Thank You for the Members of this body, for their love of liberty, for their desire to make a positive impact on our world, and for their commitment to You. Guide them today so that Your will may be done on Earth even as it is done in heaven.

We pray in Your sacred Name. Amen.

PLEDGE OF ALLEGIANCE

The Honorable TOM UDALL led the Pledge of Allegiance, as follows:

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

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

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

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, December 8, 2010.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable TOM UDALL, a Senator from the State of New Mexico, to perform the duties of the Chair.

DANIEL K. INOUYE,
President pro tempore.

Mr. UDALL of New Mexico 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 live quorum to resume the impeachment trial of G. Thomas Porteous, Jr. Senators are encouraged to come to the floor immediately. Once a quorum is present, there will be a series of up to five rollcall votes in relation to the impeachment, the motion and articles in relation to the impeachment.

Upon conclusion of the impeachment proceedings, the Senate will recess subject to the call of the Chair in order to clear the Chamber. When the Senate reconvenes, we will resume consideration of the motion to proceed to S. 3991, the Public Safety Employer-Employee Cooperation Act, with the time until 12:30 p.m. equally divided and controlled between the two leaders or their designees.

The Senate will then recess from 12:30 p.m. until 3:30 p.m. to allow for a caucus the Democrats are having.

At 3:30 p.m., the Senate will resume consideration of the motion to proceed to S. 3991. There will then be a period of 30 minutes of debate. It will be equally divided and controlled between the leaders or their designees. Upon the use or yielding back of that time, the Senate will proceed to a series of up to four rollcall votes.

Mr. President, as to how we are going to schedule those votes, I have had inquiries from both sides. There are some issues tonight as to time, but we will do our best to be as cooperative as we can. We have a lot of votes we have to complete today. And I am likely going to move to my motion to reconsider on the Defense Authorization Act this evening, allowing, as I will indicate at that time, time for amendments to that piece of legislation. But I will be meeting with the Republican leader.

There is work being done on the tax issue. It is further along than most people would think. I do not think there is a great deal more work to be done on that, and then people can decide what they are going to do on it. I have a meeting contemplated with the Republican leader sometime later today to decide how we will proceed on that.

The votes this afternoon will be on the motion to proceed to the public safety matter I have just spoken about, the motion to proceed to the Emergency Senior Citizens Relief Act, the motion to proceed to the DREAM Act, and the motion to proceed to the Zadroga legislation which is the 9/11 Health and Compensation Act.

If cloture is invoked on a motion to proceed, there would then be 30 hours of debate, as we know.

IMPEACHMENT OF JUDGE G. THOMAS PORTEOUS, JR.

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

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

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

[Quorum No. 8]

Akaka	Bennett	Bunning
Alexander	Bingaman	Burr
Barrasso	Bond	Cantwell
Bayh	Boxer	Cardin
Begich	Brown (MA)	Casey
Bennet	Brown (OH)	Chambliss

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

Coburn
Cochran
Collins
Conrad
Coons
Corker
Cornyn
Crapo
DeMint
Dorgan
Durbin
Ensign
Enzi
Feingold
Feinstein
Franken
Gillibrand
Graham
Grassley
Gregg
Hagan
Harkin
Inhofe
Inouye
Isakson
Johanns
Kerry
Klobuchar
Kohl
Kyl
Landrieu
Leahy
LeMieux
Levin
Lieberman
Lugar
Manchin
McCain
McCaskill
McConnell
Menendez
Merkley
Murkowski
Murray
Nelson (NE)
Nelson (FL)
Reed
Reid
Risch
Roberts
Schumer
Shaheen
Shelby
Snowe
Specter
Tester
Thune
Udall (CO)
Udall (NM)
Vitter
Voinovich
Webb
Whitehouse
Wicker
Wyden

Mr. REID. Mr. President, is a quorum present?

The PRESIDENT pro tempore. A quorum is present. Senators will be seated.

COURT OF IMPEACHMENT

Under the previous order, a quorum having been established, the Senate will resume its consideration of the Articles of Impeachment against Judge G. Thomas Porteous, Jr.

(The House Managers, Judge Porteous, and counsel proceeded to the seats assigned to them in the well of the Chamber.)

The PRESIDENT pro tempore. The Sergeant at Arms will make the proclamation.

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

Hear ye! Hear ye! Hear ye! All persons are commanded to keep silent, on pain of imprisonment, while the House of Representatives is exhibiting to the Senate of the United States Articles of Impeachment against G. Thomas Porteous, Jr., judge of the United States District Court for the Eastern District of Louisiana.

The PRESIDENT pro tempore. The majority leader.

Mr. REID. Mr. President, the Senate deliberated yesterday evening for a long time on the Articles of Impeachment against Judge Porteous and related motions. We meet today to vote on the articles.

Before proceeding to vote on each of the articles, however, the Senate has agreed to vote on a motion that notwithstanding impeachment rule No. XXIII, the Senate shall disaggregate the Articles of Impeachment by holding preliminary votes on individual allegations in the articles.

Can the Chair confirm, for the benefit of Senators, that a ''yes'' vote is a vote to disaggregate the articles sought by Judge Porteous and a ''no'' vote is a vote to proceed directly to voting on the four Articles of Impeachment.

The PRESIDENT pro tempore. Before I proceed, will the panel be seated.

The majority leader is correct. The Senate will now vote on the motion to disaggregate the articles. Granting the motion requires a majority of Senators present.

VOTE ON MOTION TO DISAGGREGATE

The question is on agreeing to the motion.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Delaware (Mr. CARPER), the Senator from Connecticut (Mr. DODD), the Senator from Arkansas (Mrs. LINCOLN), and the Senator from Vermont (Mr. SANDERS) are necessarily absent.

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

The result was announced—yeas 0, nays 94, as follows:

[Rollcall Vote No. 260]

NAYS—94

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

ABSENT, NOT VOTING, OR EXCUSED FROM VOTING—6

Brownback
Carper
Dodd
Kirk
Lincoln
Sanders

The PRESIDENT pro tempore. The majority leader is recognized.

Mr. REID. Mr. President, I move to reconsider that vote.

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

The motion to lay on the table was agreed to.

The PRESIDENT pro tempore. The majority leader.

Mr. REID. Mr. President, before proceeding to the final vote on the Articles of Impeachment, I ask unanimous consent that Senators may be permitted, within 7 days from today, to have printed in the RECORD opinions or statements explaining their votes and that the secretary be authorized to include these statements along with the record of the Senate's proceedings in a Senate document printed to complete the documentation of the Senate's handling of these impeachment proceedings.

The PRESIDENT pro tempore. Hearing no objection, it is so ordered.

The majority leader.

Mr. REID. Mr. President, I remind all Senators to remain in their seats during voting on all four Articles of Impeachment. Under impeachment rule XXII, once we have begun voting on the first article, voting will proceed on each of the Articles of Impeachment. When their name is called, Senators shall rise from their seat and cast their vote. This will ensure that a decorum of the Senate is maintained while these grave proceedings are underway. These proceedings affect not only Judge Porteous but also the Senate and our system of government.

The Chair will shortly instruct the Members of the Senate on the question to be put and the manner of response.

The PRESIDENT pro tempore. The clerk will read the first Article of Impeachment.

The legislative clerk read as follows:

ARTICLE I

G. Thomas Porteous, Jr., while a Federal judge of the United States District Court for the Eastern District of Louisiana, engaged in a pattern of conduct that is incompatible with the trust and confidence placed in him as a Federal judge, as follows:

Judge Porteous, while presiding as a United States district judge in Lifemark Hospitals of Louisiana, Inc. v. Liljeberg Enterprises, denied a motion to recuse himself from the case, despite the fact that he had a corrupt financial relationship with the law firm of Amato & Creely, P.C. which had entered the case to represent Liljeberg. In denying the motion to recuse, and in contravention of clear canons of judicial ethics, Judge Porteous failed to disclose that beginning in or about the late 1980s while he was a State court judge in the 24th judicial district in the State of Louisiana, he engaged in a corrupt scheme with attorneys, Jacob Amato, Jr., and Robert Creely, whereby Judge Porteous appointed Amato's law partner as a ''curator'' in hundreds of cases and thereafter requested and accepted from Amato and Creely a portion of the curatorship fees which had been paid to the firm. During the period of this scheme, the fees received by Amato and Creely amounted to approximately $40,000, and the amounts paid by Amato and Creely to Judge Porteous amounted to approximately $20,000.

Judge Porteous also made intentionally misleading statements at a recusal hearing intended to minimize the extent of his personal relationship with the two attorneys. In doing so, and in failing to disclose to Lifemark and its counsel the true circumstances of his relationship with the Amato & Creely law firm, Judge Porteous deprived the Fifth Circuit Court of Appeals of critical information for its review of a petition for writ of mandamus, which sought to overrule Judge Porteous's denial of the recusal motion. His conduct deprived the parties and the public of the right to the honest services of his office.

Judge Porteous also engaged in corrupt conduct after the Lifemark v. Liljeberg bench trial, and while he had the case under advisement, in that he solicited and accepted things of value from both Amato and his law partner Creely, including a payment of thousands of dollars in cash. Thereafter, and without disclosing his corrupt relationship with the attorneys of Amato & Creely PLC or his receipt from them of cash and other things of value, Judge Porteous ruled in favor of their client, Liljeberg.

By virtue of this corrupt relationship and his conduct as a Federal judge, Judge Porteous brought his court into scandal and disrepute, prejudiced public respect for, and confidence in, the Federal judiciary, and demonstrated that he is unfit for the office of Federal judge.

Wherefore, Judge G. Thomas Porteous, Jr., is guilty of high crimes and misdemeanors and should be removed from office.

The PRESIDENT pro tempore. The Chair will read, for the benefit of everyone present in the Chamber, paragraph 6 of rule XIX of the Standing Rules of the Senate, which states as follows:

Whenever confusion arises in the Chamber or the galleries, or demonstrations of approval or disapproval are indulged in by occupants of the galleries, it shall be the duty of the Chair to enforce order on his own initiative and without any point of order being made by a Senator.

The Chair would deeply appreciate the cooperation of everyone in the Chamber and in the galleries in maintenance of order.

VOTE ON ARTICLE I

The Chair reminds the Senate that each Senator, when his or her name is called, will stand in his or her place and vote guilty or not guilty. Under the Constitution, conviction requires a vote of two-thirds present on any article.

The question is on the first article.

Senators, how say you? Is the respondent, G. Thomas Porteous, Jr., guilty or not guilty?

The rollcall is automatic. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Connecticut (Mr. DODD) and the Senator from Arkansas (Mrs. LINCOLN) are necessarily absent.

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

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

The result was announced—guilty 96, not guilty 0, as follows:

[Rollcall Vote No. 261]

GUILTY—96

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

ABSENT, NOT VOTING, OR EXCUSED FROM VOTING—4

Brownback	Kirk
Dodd	Lincoln

The PRESIDENT pro tempore. On this article of impeachment, 96 Senators have voted guilty, no Senator has voted not guilty. Two-thirds of the Senators present having voted guilty, the Senate accordingly adjudges that the respondent, G. Thomas Porteous, Jr., is guilty as charged in this article.

The Chair now asks the clerk to read the second article of impeachment.

The assistant legislative clerk read as follows:

ARTICLE II

G. Thomas Porteous, Jr., engaged in a longstanding pattern of corrupt conduct that demonstrates his unfitness to serve as a United States District Court judge. That conduct included the following: Beginning in or about the late 1980s while he was a State court judge in the 24th JDC in the State of Louisiana, and continuing while he was a Federal judge in the United States District Court for the Eastern District of Louisiana, Judge Porteous engaged in a corrupt relationship with bail bondsman Louis M. Marcotte, III, and his sister Lori Marcotte. As part of this corrupt relationship, Judge Porteous solicited and accepted numerous things of value, including meals, trips, home repairs, and car repairs, for his personal use and benefit, while at the same time taking official actions that benefitted the Marcottes. These official actions by Judge Porteous included, while on the State bench, setting, reducing, and splitting bonds as requested by the Marcottes, and improperly setting aside or expunging felony convictions for two Marcotte employees (in one case after Judge Porteous had been confirmed by the Senate but before being sworn in as a Federal judge). In addition, both while on the State bench and on the Federal bench, Judge Porteous used the power and prestige of his office to assist the Marcottes in forming relationships with State judicial officers and individuals important to the Marcottes' business. As Judge Porteous well knew and understood, Louis Marcotte also made false statements to the Federal Bureau of Investigation in an effort to assist Judge Porteous in being appointed to the Federal bench.

Accordingly, Judge G. Thomas Porteous, Jr., has engaged in conduct so utterly lacking in honesty and integrity that he is guilty of high crimes and misdemeanors, is unfit to hold the office of Federal judge, and should be removed from office.

VOTE ON ARTICLE II

The PRESIDENT pro tempore. Senators, how say you? Is the respondent, G. Thomas Porteous, Jr., guilty or not guilty?

The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Connecticut (Mr. DODD) and the Senator from Arkansas (Mrs. LINCOLN) are necessarily absent.

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

The result was announced—guilty 69, not guilty 27, as follows:

[Rollcall Vote No. 262]

GUILTY—69

Barrasso	Franken	Nelson (NE)
Baucus	Gillibrand	Nelson (FL)
Bayh	Grassley	Pryor
Begich	Hagan	Risch
Bennet	Inhofe	Roberts
Bingaman	Isakson	Rockefeller
Boxer	Johanns	Sanders
Bunning	Johnson	Schumer
Cantwell	Kerry	Sessions
Cardin	Klobuchar	Shaheen
Carper	Kohl	Shelby
Casey	Kyl	Snowe
Coburn	Landrieu	Specter
Cochran	Lautenberg	Stabenow
Conrad	Leahy	Tester
Coons	Levin	Thune
Crapo	Lugar	Udall (CO)
DeMint	McCain	Udall (NM)
Dorgan	McConnell	Vitter
Durbin	Menendez	Voinovich
Enzi	Merkley	Warner
Feingold	Mikulski	Webb
Feinstein	Murray	Wyden

NOT GUILTY—27

Akaka	Corker	LeMieux
Alexander	Cornyn	Lieberman
Bennett	Ensign	Manchin
Bond	Graham	McCaskill
Brown (MA)	Gregg	Murkowski
Brown (OH)	Harkin	Reed
Burr	Hatch	Reid
Chambliss	Hutchison	Whitehouse
Collins	Inouye	Wicker

ABSENT, NOT VOTING, OR EXCUSED FROM VOTING—4

Brownback	Kirk
Dodd	Lincoln

The PRESIDENT pro tempore. On this Article of Impeachment, 69 Senators have voted guilty, 27 Senators have voted not guilty. Two-thirds of the Senators present having voted guilty, the verdict on article II is guilty.

The Chair now calls upon the clerk to read the third article.

The assistant legislative clerk read as follows:

ARTICLE III

Beginning in or about March 2001 and continuing through about July 2004, while a Federal judge in the United States District Court for the Eastern District of Louisiana, G. Thomas Porteous, Jr., engaged in a pattern of conduct inconsistent with the trust and confidence placed in him as a Federal judge by knowingly and intentionally making material false statements and representations under penalty of perjury related to his personal bankruptcy filing and by repeatedly violating a court order in his bankruptcy case. Judge Porteous did so by—

No. 1, using a false name and post office box address to conceal his identity as a debtor in the case;

No. 2, concealing assets;

No. 3, concealing preferential payments to certain creditors;

No. 4, concealing gambling losses and other gambling debts; and,

No. 5, incurring new debts while the case was pending in violation of the bankruptcy court's order.

In doing so, Judge Porteous brought his court into scandal and disrepute, prejudiced public respect for and confidence in the Federal judiciary, and demonstrated that he is unfit for the office of Federal judge.

Wherefore, Judge G. Thomas Porteous, Jr., is guilty of high crimes and misdemeanors and should be removed from office.

VOTE ON ARTICLE III

The PRESIDENT pro tempore. The question is on the third Article of Impeachment. Senators, how say you? Is

the respondent, G. Thomas Porteous, Jr., guilty or not guilty?

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Connecticut (Mr. DODD) and the Senator from Arkansas (Mrs. LINCOLN) are necessarily absent.

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

The result was announced—guilty 88, not guilty 8, as follows:

[Rollcall Vote No. 263]

GUILTY—88

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

NOT GUILTY—8

Akaka	Lieberman	Reid
Franken	Manchin	Wicker
Hatch	McCaskill	

ABSENT, NOT VOTING, OR EXCUSED FROM VOTING—4

Brownback	Kirk
Dodd	Lincoln

The PRESIDENT PRO TEMPORE. On this Article of Impeachment, 88 Senators have voted guilty, 8 Senators have voted not guilty. Two-thirds of the Senators present having voted guilty, the verdict on article III is guilty.

The Chair now calls upon the clerk to read the fourth Article of Impeachment.

The assistant legislative clerk read as follows:

ARTICLE IV

In 1994, in connection with his nomination to be a judge of the United States District Court for the Eastern District of Louisiana, G. Thomas Porteous, Jr., knowingly made material false statements about his past to both the United States Senate and to the Federal Bureau of Investigation in order to obtain the office of United States District Court Judge. These false statements included the following:

No. 1. On his Supplemental SF–86, Judge Porteous was asked if there was anything in his personal life that could be used by someone to coerce or blackmail him, or if there was anything in his life that would cause an embarrassment to Judge Porteous or the President if publicly known. Judge Porteous answered ''no'' to these questions and signed the form under the warning that a false statement was punishable by law.

No. 2. During his background check, Judge Porteous falsely told the Federal Bureau of Investigation on two separate occasions that he was not concealing any activity or conduct that could be used to influence, pressure, coerce, or compromise him in any way or that would impact negatively on his character, reputation, judgment, or discretion.

No. 3. On the Senate Judiciary Committee's ''Questionnaire for Judicial Nominees'', Judge Porteous was asked whether any unfavorable information existed that could affect his nomination. Judge Porteous answered that, to the best of his knowledge, he did not know of any unfavorable information that may affect [his] nomination. Judge Porteous signed that questionnaire by swearing that ''the information provided in this statement is, to the best of my knowledge, true and accurate''.

However, in truth and in fact, as Judge Porteous then well knew, each of these answers was materially false because Judge Porteous had engaged in a corrupt relationship with the law firm Amato & Creely, whereby Judge Porteous appointed Creely as a ''curator'' in hundreds of cases and thereafter requested and accepted from Amato and Creely a portion of the curatorship fees which had been paid to the firm and also had engaged in a corrupt relationship with Louis and Lori Marcotte, whereby Judge Porteous solicited and accepted numerous things of value, including meals, trips, home repairs, and car repairs, for his personal use and benefit, while at the same time taking official actions that benefitted the Marcottes. As Judge Porteous well knew and understood, Louis Marcotte also made false statements to the Federal Bureau of Investigation in an effort to assist Judge Porteous in being appointed to the Federal bench. Judge Porteous's failure to disclose these corrupt relationships deprived the United States Senate and the public of information that would have had a material impact on his confirmation. Wherefore, Judge G. Thomas Porteous, Jr., is guilty of high crimes and misdemeanors and should be removed from office.

VOTE ON ARTICLE IV

The PRESIDENT PRO TEMPORE. The question is on agreeing on the fourth Article of Impeachment. Senators, how say you? Is the respondent, G. Thomas Porteous, guilty or not guilty?

The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Connecticut (Mr. DODD) and the Senator from Arkansas (Mrs. LINCOLN) are necessarily absent.

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

The result was announced—guilty 90, not guilty 6, as follows:

[Rollcall Vote No. 264]

GUILTY—90

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

NOT GUILTY—6

Cardin	Franken	Levin
Durbin	Harkin	Reid

ABSENT, NOT VOTING OR EXCUSED FROM VOTING—4

Brownback	Kirk
Dodd	Lincoln

The PRESIDENT pro tempore. On this Article of Impeachment, 90 Senators have voted guilty, 6 Senators have voted not guilty. Two-thirds of the Senators present having voted guilty, the verdict on article IV is guilty.

The Chair directs judgment to be entered in accordance with the judgment as follows: The Senate having tried G. Thomas Porteous, Jr., U.S. District Judge for the Eastern District of Louisiana, upon full Articles of Impeachment exhibited against him by the House of Representatives, and two-thirds of the Senate present having found him guilty of the charges contained in articles I, II, III, and IV, it is therefore ordered and adjudged that said G. Thomas Porteous, Jr., be and is hereby removed from office.

The majority leader.

Mr. REID. Mr. President, it is my understanding that Judge Porteous is forever disqualified to hold and enjoy any office of trust, honor, or profit of the United States; is that true?

The PRESIDENT pro tempore. The leader is correct.

Mr. REID. Mr. President, I have an order at the desk. I ask that it be stated.

The PRESIDENT pro tempore. The clerk will report.

The legislative clerk read as follows:

Ordered, that the Secretary be directed to communicate to the Secretary of State, as provided by rule XXIII of the Rules of Procedure and Practice in the Senate when sitting on impeachment trials, and also to the House of Representatives the judgment of the Senate in the case of G. Thomas Porteous, Jr. and transmit a certified copy of the judgment to each.

The PRESIDENT pro tempore. Without objection, the order will be entered.

The majority leader is recognized.

Mr. REID. Mr. President, I move that the Senate, sitting as a court of impeachment for the Articles of Impeachment on G. Thomas Porteous, Jr., adjourn sine die and that when we return to legislative session, Senators MCCASKILL and HATCH, the two managers of this legislation, be recognized for 5 minutes each.

The PRESIDENT pro tempore. The motion is agreed to.

The Senate sitting as a court of impeachment is adjourned sine die.

Mr. REID. Mr. President, I therefore move that this man, Judge Porteous, be disqualified from holding office at any time in the future in the United States.

The PRESIDENT pro tempore. Is there debate on the motion? If not, the question is on agreeing to the motion to disqualify Judge Porteous from any further office.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Connecticut (Mr. DODD), and the Senator from Arkansas (Mrs. LINCOLN) are necessarily absent.

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

The result was announced—yeas 94, nays 2, as follows:

[Rollcall Vote No. 265]

YEAS—94

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

NAYS—2

Bingaman	Lieberman

ABSENT, NOT VOTING, OR EXCUSED FROM VOTING—4

Brownback	Kirk
Dodd	Lincoln

The PRESIDENT pro tempore. On this vote, the yeas are 94, the nays are 2. The Senate having tried G. Thomas Porteous, Jr., U.S. district judge for the Eastern District of Louisiana, upon four Articles of Impeachment exhibited against him by the House of Representatives, and two-thirds of the Senators present having found him guilty of the charges contained in articles I, II, III and IV of the Articles of Impeachment, it is therefore ordered and adjudged that the said G. Thomas Porteous, Jr., be, and he is hereby, removed from office; and that he be, and is hereby, forever disqualified to hold and enjoy any office or honor, trust, or profit under the United States.

The Chair will clarify that it requires a motion that the convicted official be disqualified from ever holding an office of honor, trust, or profit under the United States. The Senate has just adopted such motion.

Mr. REID. Mr. President, I send an order to the desk and ask that it be stated.

The PRESIDING OFFICER. The clerk will state the motion.

The legislative clerk read as follows:

Ordered that the Secretary be directed to communicate to the Secretary of State, as provided by rule XXIII of the rules of procedure and practice in the Senate when sitting on impeachment trials, and also to the House of Representatives, the judgment of the Senate in the case of G. Thomas Porteous, Jr., and transmit a certified copy of the judgment to each.

The PRESIDENT pro tempore. Without objection, the order will be entered.

The majority leader is recognized.

Mr. REID. Mr. President, I renew the request I made previously that the Senate, sitting as a court of impeachment for the Articles of Impeachment against G. Thomas Porteous, Jr., adjourn sine die, and as soon as we go to legislative session, Senator MCCASKILL be recognized.

The PRESIDENT pro tempore. Without objection, the motion is agreed to, and the Senate, sitting as a court of impeachment, is adjourned sine die.

Mr. REID. Mr. President, I ask unanimous consent that the order previously entered be vitiated directing that the Senate recess subject to the call of the Chair.

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

Mr. REID. I thank the Chair.

LEGISLATIVE SESSION

The PRESIDENT pro tempore. The Senate will return to legislative session.

The Senator from Missouri is recognized.

PORTEOUS IMPEACHMENT

Mrs. MCCASKILL. Mr. President, our Constitution is a glorious thing. It is in fact the envy of the world. One of the most effective and elegant elements of the foundation of our government is the provisions that provide for the checks and balances of our three branches of government.

It has been an incredible honor to participate in the impeachment process that was devised by very wise people very long ago, which actually provides the American people the reassurance that the Constitution is working the way it was designed to work when it comes to the checks and balances of the three branches of government.

The responsibilities of the modern Congress, both the House and Senate, are extensive. I don't need to spend much time talking about how busy we are right now. But the fact that we set aside everything that we were doing and came together and sat as a Senate and listened to the arguments and deliberated extensively about this impeachment should be reassuring to every American. I think the results are interesting in that it reflects that each Senator made an individual decision about the Articles of Impeachment. There was some unanimity on some of the counts, but on others it was Republicans and Democrats, conservatives and progressives, on both sides of the question. I think that shows the extent to which everybody made an independent judgment and took their responsibility very seriously.

I want to take a few minutes now to thank some people who are unsung heroes. Obviously, I thank the distinguished vice chairman, the Senator from Utah, for his support, experience, and wisdom in discharging the committee's duties. He was essential to this process and a great rock for me to lean on at many turns during this process. I also thank the 10 other members of the Impeachment Trial Committee for their devotion and diligence and commitment to this important work.

Then I want to take a couple of minutes to talk about the staff. I want to begin with Derron Parks, who is seated with me on the floor of the Senate. Derron walked into my office and was hired to be a legislative assistant for health care, in the middle of some pretty difficult times on health care. Then I said to him, ''By the way, can you run an impeachment of a Federal judge, also?''

As a brandnew member of my staff, he took on incredible responsibilities. All of the thanks I have received belong to him because he worked hard, he worked smart, he was a great leader, and he did a remarkable job of marshaling a bunch of Senators, a bunch of staff, a bunch of witnesses, a bunch of evidence, a bunch of legal research, and he did it in a way that I think the Senate can be very proud.

Also, I thank Tom Jipping, Senator HATCH's staff person, who helped with this as the deputy staff director for the Impeachment Trial Committee. He also put in an incredible amount of work and gave a very valuable contribution.

Justin Kim, counsel, was very important because whenever there was a disagreement about what was the right road to take in terms of historical precedence, rule of law, decisions on motions, he was always a good sounding board. There was always more than one smart lawyer in the room so that the ideas could be bounced back and forth and somehow we could come up with the right answer based on the law, the Constitution, and historical precedent.

Rebecca Seidel was also very valuable to the committee. She is another counsel who was essential in this process.

Erin Johnson, deputy counsel and chief clerk, did, frankly, some of the most difficult work, and that was making sure we had a quorum during the trial, which was hard, as you can imagine. Keeping Senators in one seat for

an extended period of time is tough. She managed to make sure that we always had the quorum the law demanded.

Lake Dishman, another member of the staff, did a wonderful job.

Susan Navarro Smelcer, an analyst on the Federal judiciary, CRS, did wonderful work for us in terms of allowing us some help on the research of the historical precedence and decisions that guided our way.

Morgan Frankel, Senate legal counsel, was on the floor for the conclusion of this impeachment matter. Like Senator HATCH, this wasn't his first time to deal with impeachment matters, so he was a wealth of information and wonderful help to us.

Pat Mack Bryan also did great work.

Grant Vinik and Tom Cabayero were also from the Senate legal counsel staff.

All of the committee members had staff people who helped. I will not put all of their names on the record now, but they will be made part of my entire statement. I will have more comments on the impeachment proceedings that I will insert in the RECORD.

I will conclude by saying that I am very proud to be a Senator today. There are days when that is not as easy to say. There are times when this place is pretty dysfunctional. But I am very proud of the Senate and how we conducted ourselves during this very important and grave proceeding. I think the responsibility was handled as the Founders would have wanted us to handle it, and I think we should all be proud of that.

Mr. President, I yield the floor.

The PRESIDING OFFICER (Mr. BENNET). The Senator from Utah.

Mr. HATCH. Mr. President, I wish to personally thank the distinguished chairwoman of this committee. I have been in the Senate a pretty long time, and she has done one of the best jobs I have ever seen done. There aren't very many impeachments—or should I say trials of impeachment, but of the ones I have seen, she ranks right up there in the top. All I can say is she ran a very good committee. She made very good decisions, she wasn't afraid to rule, she treated everybody with dignity and respect. She expected a lot of the members of the committee, which has to be the way, and she is a very intelligent and articulate and knowledgeable person. It has been my privilege to be able to serve with her and under her as vice chairman of this committee.

This is when you realize how important the Senate is, when all the Senators come together and they make decisions such as this, pro and con. Nobody should misjudge not guilty votes or guilty votes. I think every Senator voted the way he or she felt they should vote, and that was important.

I think much of the credit for the way this was all handled should go to the distinguished chairwoman, Senator MCCASKILL. She is an excellent human being, a wonderful leader on this committee, and, frankly, I am very proud of her for what she was able to do because this is not easy, and it does take a lot of time. It is similar to herding cats, trying to make sure you can get all these busy people on the committee or at least a quorum every time to be able to do business on the committee. She was able to do that.

I wish to compliment every member of the committee. Every member showed up and did a lot of work on this committee—some more than others, of course. But every one of the members of this committee worked to try to be fair and do what is right and to do justice in this matter.

Having said all that, I wish to pay tribute to Derron Parks myself. This young man deserves a lot of credit. To be thrown into an impeachment committee, when his main job was to work on health care, tested the legal acumen of this young man. I have to say he was one of the kindest, most decent, most honorable, most knowledgeable, and most intelligent people I have worked with in the Senate. He is a terrific person and I am very proud of him.

Thomas Jipping, on my staff. There are very few people around who have the experience Tom has. He is a very good lawyer. He was a constant guide and provided me with leadership. I don't think either Senator MCCASKILL or I could have done this without these two leaders on the committee.

The others were equally important to us and did very good work: Justin Kim, a wonderful human being; Rebecca Seidel. She worked with me long ago on the Judiciary Committee, is a very experienced lawyer and did a terrific job. Erin Johnson and Susan Smelcer were both critical to the work on the committee; Lake Dishman, who is on our staff and a very fine young man, who was willing to go every extra mile he could—as were all these other folks on the staff—to do what was right; Morgan Frankel and Pat Bryan from the Senate legal counsel's office. We couldn't have asked for better people, with more knowledge or more ability to lead and assist us.

Impeachment committees—or should I say the trial committee and the hearing of this is a very difficult undertaking. You are dealing with people's lives, you are dealing with people's reputations, and you have to do this in a completely fair and honest way, which I believe we did. This is one of the most important tasks the Senate does—extremely important—and I think the Senate acquitted itself very well today.

Every Senator voted his or her conscience today and, in some instances, that wasn't easy. Nobody should misjudge anybody's vote. Judge Porteous was convicted on all four articles and the vast majority of our Members felt that was proper.

At that point, I have to compliment the attorneys from the House. They were terrific. I have complimented them personally, and they know how I feel toward them, but the counsel for the House were very respectful, very knowledgeable, tremendously articulate in what they did and, frankly, acquitted themselves with great dignity and deserve all our respect. We should respect counsel representatives. It is not easy to impeach somebody in this day and age, but they did, and these folks did a terrific job and their counsel as well.

They are Alan Baron, Harold Damelin, Mark Dubester, and Kirsten Konar.

Having said that, the defense counsel did the very best job they could. Jonathan Turley is an imminent professor at George Washington University. I have known him for a long time. He is very innovative and creative. Some thought, in this particular matter, he was quite innovative and creative as well. But let me say he is a very intelligent and very knowledgeable man. His other cocounsel deserve great recognition for what they did here.

I feel sorry for Judge Porteous. To rise to the dignified position of a Federal district court judge and then have this happen, after 30 years in public service or more, I am sure is absolutely painful and a problem and damaging to his reputation. I wish him well. I hope he will analyze these things and make some changes in his life that will be better for him and for his family and others. He has a lot of friends down there in Louisiana, and I think probably earned a lot of friendship, but the Senate has ruled properly in this matter and the impeachment should be upheld.

He should have been convicted of at least one of these articles, if not all four. I don't believe he should have been convicted on two of them—and there were good legal reasons for not going that far in the case of the chairman and myself—but, nevertheless, I respect the votes of all my colleagues on the floor. I know they paid strict attention, sat through almost all the proceedings and the closed session as well, and I commend them.

Finally, I wish to commend our two leaders. The two leaders conducted these proceedings with dignity and with respect, upholding the highest standards of the Senate. You can't ask for more than that, and I am very proud of both our leaders and others as well.

It has been a privilege for me to serve on this committee. I have tried to do the best I possibly could, and I believe the result today is an honest and just result. I just hope this sends a message to all our judges on the Federal bench, and others as well, that it is important to live up to our responsibilities and to do the things we know we should be doing.

Having said all this, I wish to again thank the staff on this committee. What a tremendous bunch of young people, who did a terrific job and who deserve the bulk of the credit of any credit that is due. I am just grateful to have been able to know them and work

with them and to love them for the work they have done.

This is one of the most important things the Senate can engage in, and I wish to thank our Parliamentarians. Many times people don't realize how important the Parliamentarians are in the Senate. We couldn't function without them. We are very blessed to have the Parliamentarians whom we have helping us in the Senate. They go unrecognized many times but not by me. I have a great deal of admiration for them. They keep us out of a lot of difficulties. Sometimes they get us into some difficulties—because of the rules, not because of them. But I want to pay tribute to them as well.

This was a just result. It is what I think had to be done. The country will be better for it. It does send an appropriate message, or messages, I should say, and I feel blessed to have been able to participate on this committee and on this Senate floor. It is a great honor to serve in the Senate. Days such as this help bring that home to me, and I wanted everybody to know it.

I wish to again thank the distinguished chairwoman and tell her how much I appreciate her work.

With that, I yield the floor.

PUBLIC SAFETY EMPLOYER-EMPLOYEE COOPERATION ACT OF 2009—MOTION TO PROCEED

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of the motion to proceed to S. 3991, which the clerk will report.

The legislative clerk read as follows:

Motion to proceed to Calendar No. 662, S. 3991, a bill to provide collective bargaining rights for public safety officers employed by States or their political subdivisions.

The PRESIDING OFFICER. Under the previous order, the time until 12:30 p.m. will be equally divided and controlled between the leaders or their designees.

The Senator from Wyoming.

Mr. ENZI. Mr. President, I allocate to myself such time as I may need.

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

Mr. ENZI. Mr. President, I rise to voice my opposition to S. 3991, the so-called Public Safety Employer-Employee Cooperation Act. I have a number of policy and constitutional concerns about this bill, and I have expressed them over the years, but I have never had the opportunity to work with the bill's supporters to address those concerns. Even though this legislation falls within the HELP Committee's jurisdiction, the committee has never held a hearing on the bill and has only marked it up without amendment or written report—and that was years ago—and this is not the same bill we are considering today.

An objective consideration of this bill reveals it is based on poorly reasoned policy. Over the last 7 years, the proponents of this bill have only brought it directly to the floor and purposefully circumvented the regular order of the Senate and its committee processes, perhaps because the scrutiny of that process would expose the multiple flaws in this legislation. Rather than addressing this bill on its merits, its proponents have decided, once again, to play the sound bite game. Their calculation is simple: Since this bill involves unions that organize among police and firefighters, they will continue to simply claim that anyone who opposes this bill is against police and firefighters.

Let us address that calculated untruth first. There is no one I know of—Republican or Democrat, supporter or opponent of this bill—who does not respect and value the work and dedication of our police, firefighters, first responders, and other public safety professionals. Their contributions to our communities are immeasurable, and our support of them is unwavering. However, this bill provides no direct benefit to any police officer, firefighter or first responder. It doesn't provide a dime in Federal money to any State, city or town to hire, to train or to equip any additional public safety personnel. In fact, it simply imposes costs that will make that result less likely. It is arguably one of the biggest and most dangerous unfunded mandates the Federal Government has ever imposed.

In fact, there are a number of law enforcement groups opposing this bill: the National Sheriffs' Association, the International Association of Chiefs of Police, and the Fraternal Order of Police have all come out against S. 3991. I think we have to ask: If all these law enforcement groups oppose the bill, is it a good idea to pass it in the last days of a lameduck Congress?

Plain and simple, the only direct beneficiaries of this legislation are labor unions. You see, while unionization in the private sector has been on a historical down trend, unionization in the public sector has been increasing. In 2009, 37.4 percent of public sector employees were unionized compared to 7.2 percent in the private sector. Government workers are now five times more likely to belong to a union. For the first time in our country's history, the majority of union members are public sector employees, not private sector employees. Public sector unions have been the only area of growth for unions for many years, and as we all know, organizations need to grow to survive.

Let me now turn for a moment to some of the serious and fundamental problems with this legislation. For over 70 years, a hallmark of our Nation's labor policy has been the principle that employment and labor relations between a State, city or town, and its own employees, should not be a matter of Federal law, but a matter of local law. That bedrock principle is not only rooted in our national labor policy, it is firmly fixed in our Constitution and our traditions of federalism. Yet today the proponents of this bill seek to overturn this hallmark principle and to radically change decades of unbroken Federal law and policy. The enormity of this change is only matched by the prospect that it could occur as a result of total disregard for processes of the Senate and the complete absence of any meaningful opportunity for modification.

You would think the Senate would consider such a bill only after careful examination and due deliberation. Sadly, you would be wrong. This legislation has not had a Senate Committee hearing or markup this Congress or the two Congresses before this one. The HELP Committee has never held a hearing on this bill. The bill grants enormous power over States to a virtually unknown Federal agency. Yet we have never so much as asked a representative sampling of State officials for their views, nor have we ever even been informally asked the Federal agency involved if it feels up to the job we would impose on it. These shortcomings alone show that this bill is being pushed not because it is good policy, but because some see it as expedient politics.

This bill would require that every State, city and town with more than 5,000 residents open its police, firefighters and first responders to unionization. It would impose this Federal mandate not in the absence of any State consideration of this issue, but in direct opposition to the legislative will of several States. Proponents of this legislation have attempted to maintain the fiction that it actually does little to disturb State laws. That is simply not the case.

This bill would expressly overturn the law in 22 States. In fact, 16 States have specifically considered and rejected legislative proposals similar to the law that would be federally imposed under this bill in recent years. Some States, such as Wyoming, have chosen to either extend collective bargaining in a more limited manner than the bill before us would mandate, or not to extend it at all.

In this second chart, proponents of this bill have told Senators from States that do have ''full'' public sector collective-bargaining laws that this bill would not change anything in their respective home States. However, labor experts have identified at least 12 of those States where the viability of one or more provisions of their own current State law would be in question if this bill were enacted. That is the yellow States. Supporters of the bill base their argument on a provision which allows the Federal Board that will be ruling over all these States to ignore instances where the State law is not as broad as the Federal mandate if ''both parties'' agree that it is sufficient. Make no mistake, this provision is completely hollow.

First, there are hundreds of thousands of ''parties'' that will have the authority to agree or disagree about

the sufficiency of a State's law. Every public safety officer and his or her employer will have this authority. The term ''public safety officer'' is so broadly defined in this bill that many employee groups that may surprise you meet the definition, such as paramedics, lifeguards, security guards and more. What are the odds of all of these groups agreeing to look the other way? Further, anyone who has ever been a party to negotiation knows about leverage. The ability to place one phone call and have an entire State's law on a subject overturned and taken over by the Federal Government is some of the most powerful leverage I have ever heard of.

Let's be completely clear about what this legislation would do. A vote for this bill is a vote to overturn the law and the democratic will of the citizens of many of our States, and to invalidate the democratic action of their voters and legislators. This is very important. That is why mayors of major U.S. cities that already provide collective bargaining rights also oppose the bill. New York City Mayor Bloomberg, along with the mayors of Boston, Cleveland, Denver, Minneapolis, San Diego, Philadelphia and Mesa, AZ, all wrote to the Senate yesterday asking us not to enact this poorly thought out bill. And it is not just the chief executives objecting. Major newspapers across the country such as the Denver Post, the Richmond-Times Dispatch and the Washington Post have editorialized against this proposal. I ask unanimous consent that these materials be printed in the RECORD at the end of my statement.

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

(See exhibit 1.)

Mr. ENZI. I formerly served as the mayor of Gillette, WY, a city of 20,000 people. As I look around this Chamber there are too few here that have any experience with trying to balance a budget for a city or town, which may explain why this unfunded mandate proposal is being brought up with so little attention given to how it will increase the dire financial situation of States and municipalities.

A recent report by the National League of Cities found that municipalities will face a shortfall between $56 billion and $83 billion from 2010 to 2012. Headlines across the country confirm that city leaders are responding to deficits with layoffs, furloughs, payroll deductions and cutting city services, all of which will impact police, fire and emergency services departments. This week it was Camden, NJ, laying off 383 employees, including 67 firefighters and up to 180 police officers.

Another survey found 87 percent of city finance officers said that they were less able to meet the city's fiscal needs in 2010, than a year before. The outlook for States is just as dire, especially considering that Federal stimulus dollars, which many States have used to partially fund budget gaps, will run out after 2012. States will face an estimated $300 billion budget shortfall for 2011 and 2012. And the extent to which States and municipalities are facing underfunded public employee pensions is truly staggering. A PEW Center on the States report out this year pegs it at a $1 trillion gap.

During this downturn cities across America are struggling to maintain solvency. Unlike the Federal Government, they cannot print money—they have to actually balance their budgets. Here is the reality. Without regard to pay or benefits, just the administrative costs alone of collective bargaining represent a very significant line item that Congress now proposes to force on States, cities and towns. Towns, particularly small towns, that currently do not have the resources to negotiate and administer multiple collective-bargaining agreements would have to now hire and pay for these additional services. Towns and cities that do not devote the long hours of municipal time to the complicated process of bargaining, and overseeing multiple union contracts, and to administering contract provisions and resolving disputes under a collective-bargaining system will be required to spend that time. Nobody should be fooled. Those additional, manpower and man-hour requirements are enormously costly and burdensome. This bill would impose those costs by Federal mandate, but would not provide a single penny of Federal money to help offset those costs.

As a former mayor, and as the only accountant here in the Senate, I would remind my colleagues about the cold realities of municipal finance. If you increase municipal costs you have only two ways to meet those additional costs—either increase revenues, or decrease services. This bill will unquestionably place many municipalities in the difficult position of choosing between raising State and local taxes, or decreasing and eliminating local municipal services.

Mere consideration of this bill today reveals that many in this body remain sadly out of touch with the real needs of our constituents and the real fiscal problems that their cities and towns face every day. With stagnant or declining property values and an endless parade of increasing fixed costs, don't our cities and towns already have enough on their plate without the Federal Government imposing more new costs through this mandate?

Since the legislation before us has not gone through committee process, I have a number of amendments I will have to offer here on the floor. I always like having this type of legislation go through the committee, so we can discuss the bill and amendments in a smaller group. I always like doing it in committee. It is a smaller group, more understanding of what the different issues are. It also gives you the chance to kind of grow an idea, to get the germ of an idea and grow it between several people who are interested. That doesn't happen on the floor, it is all up or down. But I will have a number of amendments I will have to offer. These amendments are directed toward protecting the fiscal health of our communities that fall under this mandate, ensuring the integrity of public safety and service organizations, and preventing union abuse of public sector employees, among other issues.

But these problems represent only the tip of the iceberg. If this body decides to take this issue up today and spend the next week debating it, you will hear more detail on my concerns and those that will be raised by other Senators opposed to this proposal who have also never had any chance in the process for amendments.

I urge my colleagues to oppose the motion on the Public Safety Employer-Employee Cooperation Act, S. 3991.

EXHIBIT 1

DECEMBER 7, 2010.

Hon. HARRY REID,
Majority Leader, U.S. Senate,
Washington, DC.
Hon. MITCH MCCONNELL,
Minority Leader, U.S. Senate,
Washington, DC.

DEAR SENATORS REID AND MCCONNELL: As mayors of cities who oversee large public safety agencies and who collectively bargain with our public safety unions, we are concerned about the lack of examination of the Public Safety Employer-Employee Cooperation Act of 2010 (PSEECA). We believe that this bill, like other versions in previous years, could have a profound impact on public sector collective bargaining negotiations and on state and local taxpayers throughout the country, yet there have been no Senate committee hearings on PSEECA since its first introduction in 2001. The uncertainty caused by the PSEECA will certainly lead to litigation at a time when our cities can least afford such expenses.

More broadly, the entire collective bargaining structure under which law enforcement and emergency response personnel operate in our cities could be placed in jeopardy. For example, in New York City, the decision to discipline a police officer involved in a shooting incident, or to determine the circumstances in which drug testing must be performed, resides with the Police Commissioner and is not subject to the bargaining process; this ensures full accountability of the head of the police force to the public. It is of grave concern to all of our cities that important local decisions such as these would be lost as a result of an improper federal finding.

PSEECA also undermines settled law in jurisdictions that have negotiated with unions for decades. In cities like Cleveland and Minneapolis, where there is a strong history of public employee collective bargaining, this legislation runs counter to long established principles of local control over the operations of municipal government. PSEECA risks too much for our cities and adds legal and fiscal strain during especially difficult economic times. In light of how little has been done to assess the impact of this bill nationwide, we urge you not to proceed with this disappointing and potentially far-reaching maneuver.

Sincerely,

THOMAS M. MENINO,
Mayor, City of Boston.
FRANK G. JACKSON,
Mayor, City of Cleveland.

JOHN W. HICKENLOOPER,
Mayor, City of Denver.
SCOTT SMITH,
Mayor, City of Mesa.
R.T. RYBAK,
Mayor, City of Minneapolis.
MICHAEL R. BLOOMBERG,
Mayor, City of New York.
MICHAEL A. NUTTER,
Mayor, City of Philadelphia.
JERRY SANDERS,
Mayor, City of San Diego.

OPPOSITION ARTICLES RELATED TO PSEECA

''Federal Policies Should Help, Not Hurt, States' Fiscal Health'', The Washington Post—Dec. 7, 2010.

''Trampling Local Labor Laws'', The Denver Post—Dec. 1, 2010.

''Forced Labor'', Richmond Times-Dispatch—Jun. 21, 2010.

''Bad Bargain: Congress Should Let States Handle Their Own Labor Relations'', The Washington Post—Jun. 16, 2010.

''A Tale of Two Counties'', The Washington Post—May 30, 2010.

''League Ask State Officials To Oppose Bill'', Charleston Daily Mail—July 16, 2010.

''A Sop to Big Labor'', Las Vegas Review-Journal—May 30, 2010.

''Another Union Sop: Pubic Safety Canard'', Pittsburgh Tribune Review—Jul. 9, 2010.

''Budget Busting Union Bill'', The Post and Courier—Jun. 21, 2010.

''Safety Union Push Intrudes Too Far'', The Virginian-Pilot—Jun. 19, 2010.

Mr. ENZI. I yield the floor and reserve the remainder of my time.

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

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. The Senator from New York.

9/11 HEALTH AND COMPENSATION ACT

Mr. SCHUMER. Mr. President, I rise today in strong support of the 9/11 Health and Compensation Act. Yesterday we observed Pearl Harbor Day, marking the 69th anniversary of that tragic attack on American soil. Nine years ago our Nation was attacked once again. September 11, 2001, was a day of indescribable horror, not only for New York, a city I am proud to call home, but for the entire Nation.

In the minutes, hours, and days after the Twin Towers collapsed, thousands of first responders rushed to lower Manhattan to dig through the rubble. First they searched for survivors. We all remember the horrible—this is vivid in my mind, the signs people holding: Have you seen this person? It is my husband, my wife, my child, my parent. Because no one knew where everyone was amidst the rubble. We thought—unfortunately we were disappointed, deeply—that there were survivors amidst the rubble and time was of the essence to find them.

Then, in days later, when we realized that there weren't many survivors, there was still a great need to, sadly, search for the bodies of those who perished. You can imagine the anguish of families, who wanted a sign, something—remains of their loved ones—and that search continued. Valiant men and women, not just from New York or New Jersey or Connecticut but from Minnesota and Colorado and all around the country, came—firefighters, first responders, police officers, ordinary citizens—to help us in our horrible hour of need—a moment, a day, a week, a month that I will never forget.

I still look out my window in my home in Brooklyn, every day when I am home, and know that those two Twin Towers are no longer there and I think of the people I knew who were lost, a guy I played basketball with in high school, a businessman who helped me on the way up, a firefighter who dedicated his life to my neighborhood in Brooklyn where I was raised, getting people to donate blood.

We think of all these people. They were resolute, they were brave, they were selfless—those who were lost and then those who came to the rubble. Construction workers. They didn't ask if they were going to get paid. They didn't ask what the danger was to them. They were brave, they were resolute, they were selfless as were firefighters, policemen, EMTs, and others.

Amid the chaos and carnage, they said to themselves: This is what I am trained for, and I will do whatever it takes to help, even if it means risking my life.

So the dust has settled and the ruins of the World Trade Center have been cleared away. The effects of the attack are still being felt, now more than ever, by thousands of those first responders.

Medical experts have determined that on September 11 and the days after, the air around Ground Zero was filled with microscopic cement and glass particles. This dust has caused thousands of first responders to develop chronic respiratory and gastrointestinal diseases.

Just last week, we lost 9/11 first responder Kevin Czartoryski, a NYPD narcotics detective. He is the third hero to pass away in the past month from the medical complications related to the rescue effort.

Back in 2006, doctors from the Mount Sinai Medical Center that my predecessor, or my former colleague, now Secretary of State, then-Senator Clinton, worked so hard to bring into the picture found that a staggering 70 percent of 9/11 rescue workers suffered from health problems, many of which were irreversible.

The fact is, right now there are people who rushed to those towers who do not know they are ill. The symptoms of these illnesses and diseases, when you get these particles in your lungs and in your gastrointestinal system, the cancers and other illnesses that develop, take years and years before they can be detected. So we know that in the coming years there are going to be more heroes who will become ill, and those who are already suffering may see their conditions worsen.

The 9/11 Health and Compensation Act will finally put these first responders at ease with the knowledge that they will receive treatment for health problems related to rescuing victims of the attack and helping clear the debris from Ground Zero. The bill ensures that those at risk of illness have access to medical monitoring and that all of those who get sick from exposure have a right to consistent treatment. The bill also ensures ongoing data collection and analysis for exposed populations, so we can try to cure or treat in advance people who might become ill.

Critically, the legislation would ensure steady funding for those vital programs so that those in treatment no longer have to wonder whether Congress will appropriate adequate funds to allow their treatment to continue year to year. We have appropriated funds every year. Everyone in this Chamber has voted for those funds. But when it is yearly funds and you need an ongoing medical regime, it is very hard to plan, to buy that machine, to set up a team that would work for 3 or 4 or 5 years under normal circumstances. The heroes who rushed to the towers deserve to be guaranteed proper treatment, not to have their medical needs subject to the whims of what is going on at that month, that time in Washington.

In addition to addressing health needs, the bill would reopen the victims compensation fund, allowing those who missed the arbitrary deadline of December 22, 2003, to seek compensation. This deadline unfairly barred responders who became ill or learned of the fund after the date. You rushed to the tower. As of 2003, you were aware of the fund, but you did not apply. You did not have anything wrong with you. Six months later, you get cancer of the lungs or cancer of the esophagus or stomach, which we found so many getting. Why unfairly prevent them?

So this bill is an opportunity to send a clear message to the thousands of first responders who risked their lives on that fateful day 9 years ago. We say to them: In our Nation's time of need, you gave us your all. Now, in your time of need, we will give you our all.

Let's not forget, on both sides of the aisle, we have struggled mightily to help our veterans from the wars in Iraq and Afghanistan. In 2001 and 2002, we saw that veterans health care was not up to snuff. There was a bipartisan effort to bring it up to snuff, to make the health care adequate for the new needs of the veterans who risked their lives for us in Iraq and Afghanistan. Why? Because this Nation has a tradition: When you volunteer—as our soldiers do today—and risk your life to protect our

freedom, particularly at a time of war, we will be there for you and deal with your medical problems that were caused in that conflict.

I would argue to every one of my colleagues here today, those who rushed to the towers in those fateful hours and days after 9/11 are no different from our veterans whom we exalt. It was a time of war. Our Nation was attacked. They volunteered. No one compelled them to do it. They rushed to danger as our veterans do. So when they are injured, which has happened, they should be treated the same as our veterans. This is nothing we should play politics with, just as we do not play politics with veterans' needs.

I want to make sure everybody hears us. I know there are other legislative concerns, whether it is tax bills or funding bills or whatever. I would say to my colleagues on the other side of the aisle, it is not fair and it is not right to say that we will not remember these people who volunteered and risked their lives to protect our freedom in a time of war; we will not help them until X or Y or Z gets done. It is not fair. It is not right.

It is also time for those who are against the bill to stop spreading lies about it. They say it is vulnerable to fraud. It has been very tight. My good colleague, the Senator from New York, Mrs. GILLIBRAND, has documented thoroughly and completely how the existing compensation has not created any fraud or other types of problems.

We are here. We have debated this bill for years. It has been like running a marathon, and this is the last 100 yards. Thousands of first responders, police officers, firefighters, construction workers, and other heroes who were ordinary citizens from each of the 50 States are waiting for us to act. And for all too many of them, help cannot come soon enough. The finish line is in view. Let us, on both sides of the aisle, cross it together. I implore my colleagues to vote in favor of the 9/11 Health and Compensation Act.

Before I sit down, I wish to praise my colleague who has led the fight, Senator GILLIBRAND from New York. She has made it her passion. She works for it hours every day and has done an amazing job. I also thank our colleagues on this legislation, particularly my colleagues from across the river, Senators LAUTENBERG and MENENDEZ, who have been our partners. I thank PETER KING, CAROLYN MALONEY, and JERROLD NADLER in the House for their work and many others in New York and other delegations. Again, I hope those efforts will not go in vain, not because of the people who worked on the bill like we did but because of the people who need our help, those who have all kinds of illnesses because they volunteered to help our great Nation and preserve its freedom in a time of war.

I yield the floor.

The PRESIDING OFFICER (Mr. FRANKEN.) The Senator from Colorado.

DREAM ACT

Mr. BENNET. Mr. President, I would like to thank the senior Senator from New York for all of his efforts over many years to make sure first responders from 9/11 receive the settlements they deserve.

I rise today to speak in strong support of the DREAM Act. The DREAM Act will enable some of the best and brightest young people who have graduated from our schools to serve in the Armed Forces and to excel in college and their careers. The DREAM Act actually raises revenue to reduce our deficit. It is for these reasons that the DREAM Act has a history of bipartisan support and why I urge my colleagues to support this bill today, both Republicans and Democrats.

I have been a strong supporter of comprehensive immigration reform that will secure the border, reform our broken family and employment visa systems, address employers who willfully break the law, and require the undocumented to register and become legal, pay a fine, pay their taxes, learn English, and pass criminal background checks.

Unfortunately, Washington has been unable to get comprehensive immigration reform done, even as our immigration system becomes more and more broken. As a result, we need to look at smaller measures to make sure we are addressing the immigration issues that cannot wait. For instance, recently the Senate approved $600 million to send 1,500 new Border Patrol agents, additional unmanned aerial drones, and communications equipment to our southwest border in order to stem the flow of undocumented immigration and prevent the further smuggling of weapons and money. This is an effort I supported.

The DREAM Act is another step toward improving the overall system. It is a program targeted to a relatively small, defined, select group of immigrants who are currently in this country with few options through no fault of their own. These are students and graduates of our schools who did not choose to come here but have succeeded and begun to contribute to our country.

This debate is about whether a child who has excelled in the classroom has the opportunity to attend college and later contribute to society as a taxpaying citizen. This debate is also about whether a child whose only home is our country can have the opportunity to serve America in our Armed Forces. It is about whether it makes good fiscal sense to have our government invest in the education of these young people and generate what the Congressional Budget Office estimates to be $1.4 billion in savings through new revenues to be generated when these kids enter our workforce armed with an education or valuable military experience.

Each year, roughly 65,000 U.S. school students who would qualify for the DREAM Act benefit graduate from high school. These include honor roll students, star athletes, talented artists, homecoming queens, aspiring teachers, doctors, and U.S. solders. As a former superintendent of the Denver public schools, I saw firsthand the achievement and potential for these young people, students such as Kevin, who wrote my office this fall to tell his story.

Kevin graduated from high school in Colorado with a 3.9 grade point average and has always dreamed of becoming an engineer. He graduated from the University of Denver with a 3.5 grade point average, and a bachelor of science in electrical engineering with a specialization in control and robotics and a minor in math. Unfortunately, because of his status and despite the fact that our country is in desperate need of engineers, Kevin cannot pursue his dream of becoming an engineer and is now working at a fast food restaurant. This is just one example of our failed politics, where Washington settles for rhetoric over common sense.

According to Defense Secretary Robert Gates, about 35,000 noncitizens serve and 8,000 permanent resident aliens enlist in our military every year. In a letter to Senator DURBIN this past September, the Defense Secretary wrote that the DREAM Act represents an opportunity to expand this pool to the advantage of military recruiting and readiness.

Passing the DREAM Act will provide the opportunity for Fanny, another young woman who reached out to my office, to serve in the military. She came to Denver at the age of 7. When she entered high school, Fanny joined the Air Force ROTC Program, the drill team and the Color Guard. Her dream was to attend the Air Force Academy and serve in the military. Unfortunately, Fanny is barred from service in spite of the fact that this is the only home she knows. Rather than opening the door to service in this time of war, young people like Fanny who want to stand proudly and serve our country are precluded from doing so.

Taxpayers also stand to gain from the DREAM Act. We will receive a significant return on investment through the contribution of these youth to our society and the revenue generated by their newly legalized, tax-paying status. It has been estimated by the CBO that successful DREAM Act applicants will generate $2.4 billion in new tax revenue. This is based on the fact that these youth will be able to transition into higher paying jobs and will be paying their fair share of taxes.

If we are going to get our fiscal house in order, we need to make sure we are getting a full return on our investment and not closing the door on new tax revenues.

I know many of my colleagues may still be undecided on whether to move forward on the bill. Some have supported the DREAM Act in the past, only to move away from it in the face

of heated rhetoric around the issue of immigration. I ask that before any of them make a final decision, they step back and take a fresh look at the facts and the reality facing these youth.

Support for the DREAM Act is not only a matter of conscience for me since it is the right thing to do, it is also a practical solution. Continued delay is an irresponsible waste.

We owe it to the taxpayers who have invested in the education of these youth, the teachers who have fostered their development, and our military who can benefit from these new recruits to move forward on the DREAM Act. I plan to vote yes and strongly urge my colleagues to do the same.

I yield the floor.

RECESS

The PRESIDING OFFICER. Under the previous order, the Senate stands in recess until 3:30 p.m.

Thereupon, at 12:31 p.m., the Senate recessed until 3:30 p.m. and reassembled when called to order by the Presiding Officer (Mr. MERKLEY).

PUBLIC SAFETY EMPLOYER-EMPLOYEE COOPERATION ACT OF 2009—MOTION TO PROCEED—Continued

The PRESIDING OFFICER. Under the previous order, there will now be 30 minutes of debate equally divided and controlled between the two leaders or their designees.

In the absence of anyone seeking recognition, time will be charged equally to both sides.

The Senator from Vermont is recognized.

EMERGENCY SENIOR CITIZENS RELIEF ACT

Mr. SANDERS. Mr. President, later on this afternoon, we are going to be voting on a very simple and straightforward piece of legislation called the Emergency Senior Citizens Relief Act. This legislation is cosponsored by Majority Leader REID, Senators LEAHY, SCHUMER, SHERROD BROWN, WHITEHOUSE, STABENOW, BEGICH, CASEY, GILLIBRAND, LAUTENBERG, and MENENDEZ.

What this legislation would do is, at a time when, for the second consecutive year, seniors and disabled veterans have received no cost-of-living adjustment, or COLA, on their Social Security, this legislation would provide the equivalent of a 2-percent increase by providing them with a one-time $250 check.

In addition to the Senate cosponsors, this legislation is supported by President Obama, and I appreciate that. It is also supported, for all the right reasons, by virtually every senior organization in the country and every veterans organization, because this benefits not just seniors, many of whom are struggling hard to pay their bills, when their health care costs and prescription drug costs are rising, but it also impacts disabled veterans.

Also supporting this is AARP, the largest senior organization in America; the American Legion, the largest veterans organization in America; VFW; National Committee to Preserve Social Security and Medicare; Disabled American Veterans; The Alliance for Retired Americans; The National Association of Retired Federal Employees; The Vietnam Veterans of America; and many other veterans and senior organizations.

Just this morning, earlier today, 253 members of the House, including 26 Republicans, voted to provide the same $250 COLA included in the bill that we are going to be voting on within a short time. So it won overwhelmingly in the House. In the House, they put it on the suspension calendar and it needed a two-thirds vote, but they didn't quite get that. I am confident that if we can come together here and get the 60 votes that we need, the House will reconsider the measure and pass it with a strong majority over there.

In the state of Vermont—and I think all over this country—seniors are wondering as to why they are not getting a COLA this year when they are experiencing significant increases in their expenses. And the reason they are not getting their COLA is that, in my view, we have a very flawed methodology in terms of how we determine COLAs for Social Security. What the Department of Labor now does is kind of combine all of the purchasing needs of all Americans—people who are 2 years old, kids who are 16 years old, and people who are 96 years of age. The flaw there is that while laptop computers, and iPads, and other communications technology may in fact have gone down, lowering the cost of inflation, the needs of seniors and what they spend money on have not gone down.

Most seniors spend their disposable income on health-related costs—visits to doctors, health care, prescription drugs. Those have in fact gone up. So it is unfair for seniors when all of the Americans' purchasing habits are combined, because I think what is not fairly appreciated is what they are spending money on.

To give you one example, the New York Times reported last year that 2009 marked the highest annual rate of inflation for drug prices since 1992, with the prices of brandname prescription drugs going up by about 9 percent. Seniors spend a lot of money, not on flat-screen TVs or iPads or computers but in fact on prescription drugs.

According to the AARP's Public Policy Institute, the average price of brandname prescriptions most widely used by Medicare beneficiaries rose by 8.3 percent from March 2009 to March of 2010.

Since 2000, Medicare Part B premiums have more than doubled, and deductibles have increased by 55 percent.

Seniors enrolled in Medicare Part D prescription drug plans have seen their premiums increase by 50 percent between 2006 and 2010, including an 11-percent increase between 2009 and 2010.

In other words, the seniors who are calling my office, and I suspect your offices, and offices all over this country, are saying: Excuse me, our expenses are going up and we need some help.

This is especially true for the millions of seniors and disabled veterans who are living on limited incomes. They are in trouble. Furthermore, what I would say is that, in the midst of this great debate we are having now on how we go forward in terms of taxes, there are a lot of seniors out there wondering how we can provide hundreds of billions of dollars in tax breaks for the top 2 percent, yet we cannot provide a $250 check to a disabled veteran or a senior on Social Security.

This is a very simple piece of legislation. The House has already passed it with a strong majority. I hope very much we can pass it this afternoon.

I yield the floor.

The PRESIDING OFFICER. The Senator from Iowa is recognized.

Mr. HARKIN. How much time do we have?

The PRESIDING OFFICER. Five and one-half minutes.

Mr. HARKIN. Mr. President, I yield myself the remainder of the time. I see no Republicans on the floor now.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. Mr. President, our first responders are genuine heroes. On a routine basis, they walk into burning buildings, confront criminals, and put their lives on the line to protect our families and communities. These dedicated workers are on the front lines every day, and they have invaluable skills and knowledge about how to best protect the public and stay safe on the job.

Unfortunately, under current law, many of our first responders have no voice in the decisions that affect their own lives and livelihoods. Their workplace input is disregarded because they are denied the same basic rights that other American workers enjoy. Currently, private sector employees are covered by the National Labor Relations Act and have the right to form a union if they choose, but we leave it up to States to determine whether police and firefighters have the right to form a union. Over half of the States allow collective bargaining, but almost 300,000 police officers and 141,000 fire fighters nationwide are legally forbidden from exercising their basic, fundamental right to collective bargaining. That is an injustice to our police and firefighters and is inconsistent with American values. That is why I support the Public Safety Employee-Employer Cooperation Act, which would extend this basic right to thousands of brave public servants. This bill has the support of a broad bipartisan coalition of Senators.

The Public Safety Employer-Employee Cooperation Act protects the

fundamental rights of our first responders by requiring States to provide them with four basic protections: The right to form and join a union; the right to sit down at the table and talk; the right to sign an enforceable contract if both parties agree; and the right to go to a neutral third party when there are disputes.

The benefits of this bill go to both our first responders and the communities they serve. We know that collective bargaining helps improve safety for workers. The firefighter fatality rate in States without collective bargaining is about 52 percent higher than in States that honor these rights. Collective bargaining relations have also helped to address worker fatigue, on-the-job errors, employee fitness, and safety hazards like asbestos. Equally important in these times of State fiscal crisis, there are countless examples across the country of union firefighters and police officers voting to forego scheduled salary increases, defer pension payments, pay increased benefit premiums, or reduce overtime hours in order to help States cut costs and avoid layoffs.

While guaranteeing the fundamental right to organize, the act preserves maximum flexibility for States and localities to shape their own laws. The 26 States that already allow collective bargaining will not have to change their laws at all. Other States will have to ensure the four basic protections, but everything else about how to craft their labor laws is left entirely to the States' discretion.

It is long past time to ensure that our dedicated public safety officers have the same basic rights that private-sector workers across the country already enjoy. This is a matter of fundamental fairness, and an urgent matter of public safety. I urge all of my colleagues to support this important bipartisan bill.

Mr. President, earlier today my colleague from Wyoming was on the Senate floor and made some statements about this bill—my ranking member, Senator ENZI. I just want to respond to a couple of those.

My friend from Wyoming said the bill didn't go through the HELP Committee during this Congress, and we weren't given a right to consider the bill in the appropriate venue. Well, Senator GREGG, on the Republican side, has introduced this bill for the last five Congresses. The HELP Committee has marked up this bill and approved it twice, and a majority of the Senate has twice voted to consider the bill. So we have been debating this bill for years. Simply because it didn't go through the committee this time doesn't mean it didn't go through the committee many times before, which it did.

Secondly, the bill does not impose an unfunded mandate on our States. That was mentioned. It does not require cities and States to spend money, only to engage in a dialogue. It does not allow strikes, and it does not impose arbitration or require particular terms. These are indeed left up to the States.

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

Mr. HARKIN. Yes.

Mr. SESSIONS. I think the Senator is using my time.

The PRESIDING OFFICER. The Senator is still in his own time.

Mr. SESSIONS. All right. I was wrong, I am pleased to say.

I thank the Chair.

Mr. HARKIN. Mr. President, the American people are united in their desire to provide generously for the new generation of veterans, including those who have served in the wars in Iraq and Afghanistan. We want these veterans to have every opportunity to reintegrate successfully into civilian life, to find good jobs, and to build solid careers. To that end, the Federal Government has provided opportunities for these veterans to pursue advancement through higher education. That is why we passed the post-9/11 G.I. bill on June 30, 2008, and it is why we expanded existing education programs through the Department of Defense—DOD.

The Committee on Health, Education, Labor, and Pensions, which I chair, has been conducting an in-depth inquiry into the for-profit sector of higher education. Most recently, we have taken a look at the unprecedented surge of dollars from military educational benefits programs to for-profits. I am here today to have printed in the RECORD a new report that committee staff has prepared titled, ''Benefitting Whom? For-Profit Education Companies and the Growth of Military Educational Benefits.'' This report documents that between 2006 and 2010, combined Department of Veterans Affairs and Department of Defense education benefits received just by 20 for-profit education companies increased from $66.6 million to $521.2 million, an increase of 683 percent.

Mr. President, I will have more to say about the report in the upcoming days.

Mr. President, I ask unanimous consent that a report and an appendix be printed in the RECORD.

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

Post-9/11 Veterans Educational Assistance Act: Enacted in June 2008, the Post-9/11 GI Bill has been in effect for only one year. Even a look at this brief window illustrates that students eligible for these benefits are being aggressively pursued by for-profit schools. The 30 for-profit schools that received document requests reported 23,766 students receiving military benefits of any type in 2006, but 109,167 students receiving benefits in 2009, and 100,702 students through approximately just the first half of 2010.

Rapidly Increasing Veterans' Benefits: Of 20 for-profit schools that provided usable data to the HELP Committee, between 2006 and 2010, the combined VA and DoD total military educational benefits increased from $66.6 million to a projected $521.2 million in 2010, an increase of 683 percent. For each year analyzed, growth in revenue from military educational benefits was much higher than overall revenue growth, and the growth accelerated dramatically after the Post-9/11 GI Bill was enacted. Between fiscal year 2006 and 2007, overall revenue increased 8.4 percent while military educational benefit related revenue increased 23.8 percent. Between 2009 and 2010, while overall revenue increased a healthy 26.1 percent, military revenue increased 211 percent. DoD programs are also increasing rapidly.

Eighteen companies that provided documents to the HELP Committee differentiated revenues from the Department of Veterans Affairs and the Department of Defense for the entire period 2006 through 2010. In that period, Department of Defense educational benefits paid to these schools increased from $40 million in 2006 to an expected $175.1 million in 2010, a 337.4 percent increase. Department of Veterans Affairs educational benefits paid to these schools increased more than tenfold from $26.3 million in 2006 to an expected $285.8 million in 2010, including a five-fold increase from $55.3 million to $285.8 million just between 2009 and 2010. Increases in both programs occur across schools and are not dependent on the size of the school or whether it offers classroom-based programs or operates primarily online. For one primarily online school, DoD revenues increased more than seven-fold from $220,528 in 2006 to $1.64 million in 2010. For a smaller privately owned school, they increased ten-fold from $7,300 in 2006 to $75,300 in 2010. At a school with a long history of serving active duty servicemembers, DoD revenues increased from $26.44 million in 2006 to an expected $98.14 million in 2010. When looking at VA benefits, a primarily online school specializing in graduate programs saw an increase from $375,108 in 2006 to an expected $12.35 million in 2010. At a smaller privately owned school, VA benefits increased from $321,450 in 2006 to a forecasted $8 million for 2010.

Company 1: To better understand the dramatic impact that changes to the DoD and VA programs have had on the amount of funding flowing to for-profit schools, it is helpful to look at three individual education companies. Company 1 operates a for-profit school that is not publicly traded. It has a strong physical presence near military installations, with a history of enrolling students who are servicemembers or veterans. The school actively recruits servicemembers and veterans, and has military-oriented marketing on its website, noting that it offers classes on, near, and around military installations as well as online. It encourages active-duty servicemembers to utilize the Top-Up program to spend Post-9/11 GI Bill benefits in addition to Tuition Assistance in order to cover tuition. In 2006, the school had 1,338 military students. With the availability of Post-9/11 GI Bill benefits and the overall growth in enrollment, some growth in both the numbers of students attending the schools and the amount of military benefit dollars going to the schools would be expected. In fact, steady growth is evident from 2006 through 2009, with military funding increasing from $3 million in 2006 to $3.4 million in 2009 and the number of eligible students varying from 1,100 to 1,400. However, for 2010 the growth is dramatic, with the school enrolling 5,223 eligible military students and receiving $23 million in military benefits. At the same time, according to the Committee's analysis of all the students enrolling in the school's associate's degree programs between August 1, 2008 and July 31, 2009, 47 percent had dropped out by mid-2010, as had 52 percent of students enrolled in the school's bachelor's degree program. Students who dropped out of these programs within the first year did so in an average of 180 days, during which they would likely have

paid about $6,550 in tuition. The school also has an overall repayment rate of just 33 percent, while one campus has a repayment rate of just 8 percent. Although military students may fare somewhat better than the overall student population in completing the programs, the fact that such a significant portion of military educational benefits are going to a for-profit school with high tuition, in combination with problematic outcomes and poor repayment rates, raises serious questions about whether the school might be shortchanging veterans.

Company 2: A second company, this one publicly traded, similarly saw a significant increase of military benefits in 2009 and 2010. Unfortunately, it is impossible to examine the increase because the company never tracked the amount of military educational benefits received prior to 2009, and has failed to provide a breakdown of how much of the military educational benefits they receive is from the DoD and how much is from VA. Similarly, the company failed to provide the HELP Committee with the number of students receiving military benefits for any year except 2009, when they stated that they enrolled 2,764 students receiving military benefits. This company, which received $1.02 billion in federal financial aid dollars in 2009, generated $488.8 million in profits, and spent $120,000 on lobbying in the first three quarters of 2010, has not produced basic information about company revenues or its student body requested by the HELP Committee. Supplementing the $1.02 billion in revenues from federal financial aid dollars the company received in 2009, it is on pace to receive $101.4 million in federal military educational benefits in 2010, the highest dollar figure of any for-profit school. In the first year of Post-9/11 GI Bill eligibility (August 2009–July 2010), the company's campuses received at least $79.2 million in benefits just from the Post-9/11 program for 6,677 students, at an average cost of $11,855 per student. Like Company 1 discussed above, the overall student outcomes for this particular school were poor. For students entering between summer 2008 and summer 2009, 53.1 percent of associate's degree students and 44.5 percent of bachelor's degree students had dropped out by the summer of 2010, and had dropped out within a median of 90 days, or just under 3 months. The company has a loan repayment rate of 31 percent with two campuses with repayment rates of only 4%, and has 11 campuses with 3-year default rates over 25 percent. Meanwhile, the company's revenues provided a 37.1 percent profit margin for 2009. Again, these figures raise a troubling question: Is this school putting profit ahead of providing our veterans with a quality education that will lead to a good job?

Company 3: A second publicly traded company also helps to illustrate the dramatic and recent nature of the increases in military educational benefits going to for-profit schools, as well as the cost differentials among the schools. Company 3 received Post-9/11 GI Bill benefits for 6,211 students totaling $47.9 million. Company 2 received benefits for a comparable 6,677 students, but received $79.2 million in VA benefits. While Company 3 received an average of $7,710 per student, Company 2 with similar programs and locations, received an average of $11,855 per student! Company 3 provided clear data to the Committee showing that in 2006, the school received benefits from three students under the DoD Tuition Assistance program and 207 students through VA programs, for combined military educational revenues of $2.69 million. These numbers remained relatively level through 2009, with six students receiving DoD Tuition Assistance and 148 receiving VA benefits for a total of $1.44 million in revenues. In 2010, however, the same school enrolled 5,754 veteran students, and received veterans' benefits totaling $57.99 million. Enrollment of active-duty students receiving tuition assistance also soared from six students to 148 students receiving $2.43 million in benefits, a significant one year increase on its own. However, for students entering in 2008–2009, 56.4 percent of all bachelor's students and 54.3 percent of all associate's students had left Company 3's schools within one year of enrolling, with the median student staying 112 days or just under four months. The repayment rate for the company's student body as a whole is 35 percent. Looking at individual schools' rapid acceleration in revenues from both VA and DoD military educational benefits makes clear that there is a concerted effort to attract students eligible for military benefits to the schools. It demonstrates that the increase in funds going to the schools has occurred very quickly and is likely to continue and possibly to escalate in the absence of increased oversight by Congress or the relevant agencies. Given the troubling short-term outcomes of many of the for-profit schools examined by the Committee, and the unknown, but potentially troubling prospects for students completing these programs, very serious questions exist as to whether our servicemembers and veterans are receiving the education intended by Congress.

With high tuition rates, and with half, or close to half of the general student population dropping out in the first year, it is incumbent on the Congress and the agencies to do more to ensure that the servicemembers and veterans attending for-profit schools are in fact getting the promised educational benefits in exchange for this significant federal investment.

MILITARY EDUCATIONAL BENEFITS RECEIVED BY 30 FOR-PROFIT EDUCATION COMPANIES

Company	Fiscal year	Department of Defense education benefits	Department of Veterans Affairs education benefits	Total military education benefits
Alta Colleges, Inc.	2006	$0.00	$0.00	$0.00
	2007	$0.00	$0.00	$0.00
	2008	$0.00	$0.00	$0.00
	2009	$0.00	$0.00	$0.00
	2010	$0.00	$12,794,916.35	$12,794,916.35
	2010 Projected	*$0.00*	*$15,353,899.62*	*$15,353,899.62*
American Career College	2006	$0.00	$1,930.00	$1,930.00
	2007	$0.00	$0.00	$0.00
	2008	$0.00	$0.00	$0.00
	2009	$0.00	$186,117.42	$186,117.42
	2010	$0.00	$662,251.00	$662,251.00
	2010 Projected	*$0.00*	*$1,135,287.43*	*$1,135,287.43*
American Public Education, Inc.	2006	$26,438,624.99	$2,241,622.12	$28,680,247.11
	2007	$42,666,884.40	$3,293,956.56	$45,960,840.96
	2008	$65,338,857.08	$4,807,090.49	$70,145,947.58
	2009	$85,377,635.60	$7,194,847.69	$92,572,483.29
	2010	$49,070,768.25	$7,070,234.33	$56,141,002.58
	2010 Projected	*$98,141,536.50*	*$14,140,468.66*	*$112,282,005.16*
Anthem Education Group	2006	$0.00	$27,500.21	$27,500.21
	2007	$0.00	$26,272.65	$26,272.65
	2008	$0.00	$22,908.17	$22,908.17
	2009	$0.00	$0.00	$0.00
	2010	$0.00	$588,476.04	$588,476.04
Apollo Group, Inc.	2006	$34,429,054.89	$4,305,292.85	$38,734,347.74
	2007	$34,600,039.42	$5,309,996.10	$39,910,035.52
	2008	$32,581,190.54	$6,782,860.27	$39,364,050.81
	2009	$39,123,465.11	$10,462,349.95	$49,585,815.06
	2010		NO DATA PROVIDED	
Bridgepoint Education, Inc.*	2006	$0.00	$12,366.45	$12,366.45
	2007	$0.00	$30,229.09	$30,229.09
	2008	$640,590.82	$91,495.61	$732,086.43
	2009	$1,926,211.44	$2,225,403.61	$4,151,615.05
	2010	$20,593,019.48	$6,139,962.76	$26,732,982.24
	2010 Projected	*$41,186,038.96*	*$12,279,925.52*	*$53,465,964.48*
Capella Education Co.	2006	$56,335.00	$375,108.11	$431,443.11
	2007	$58,459.40	$318,253.00	$376,712.40
	2008	$161,197.00	$381,233.53	$542,430.53
	2009	$304,482.05	$2,484,172.59	$2,788,654.64
	2010	$174,333.49	$6,173,139.32	$6,347,472.81
	2010 Projected	*$348,666.98*	*$12,346,278.64*	*$12,694,945.62*
Career Education Corp.	2006	$7,913,267.48	$15,964,584.60	$23,877,852.08
	2007	$7,532,830.67	$13,917,067.94	$21,449,898.61
	2008	$7,190,440.67	$15,474,386.19	$22,664,826.86
	2009	$10,589,096.30	$27,954,755.10	$38,543,851.40

MILITARY EDUCATIONAL BENEFITS RECEIVED BY 30 FOR-PROFIT EDUCATION COMPANIES—Continued

Company	Fiscal year	Department of Defense education benefits	Department of Veterans Affairs education benefits	Total military education benefits
	2010	$6,710,145.55	$39,433,890.52	$46,144,036.07
	2010 Projected	*$13,420,291.10*	*$78,867,781.04*	*$92,288,072.14*
Chancellor University	2006		DID NOT EXIST	
	2007		DID NOT EXIST	
	2008		DID NOT EXIST	
	2009	$0.00	$0.00	$0.00
	2010	$0.00	$0.00	$0.00
Concorde Career Colleges, Inc.*	2006	$21,137.33	$97,271.44	$118,408.77
	2007	$17,973.80	$176,478.65	$194,452.45
	2008	$86,697.86	$244,802.49	$331,500.35
	2009	$185,118.31	$1,002,726.23	$1,187,844.54
	2010	$357,937.20	$1,697,880.32	$2,055,817.52
	2010 Projected	*$715,874.40*	*$3,395,760.64*	*$4,111,635.04*
Corinthian Colleges, Inc.	2006	NO BREAKOUT PROVIDED		$39,388.00
	2007	NO BREAKOUT PROVIDED		$31,133.00
	2008	NO BREAKOUT PROVIDED		$64,761.56
	2009	NO BREAKOUT PROVIDED		−$4,927.56
	2010	$485,045.00	$15,277,378.79	$15,762,423.79
DeVry, Inc.	2006	$21,648.55	$2,667,497.87	$2,689,146.42
	2007	$42,539.74	$2,161,221.01	$2,203,760.75
	2008	$27,035.46	$2,119,896.25	$2,146,931.71
	2009	$59,402.67	$1,383,042.43	$1,442,445.10
	2010	$2,428,761.15	$55,557,510.47	$57,986,271.62
Drake College of Business	2006	$0.00	$0.00	$0.00
	2007	$0.00	$0.00	$0.00
	2008	$0.00	$0.00	$0.00
	2009	$0.00	$0.00	$0.00
	2010	$0.00	$0.00	$0.00
ECPI Colleges, Inc.	2006	$1,730,565.36	$1,250,382.30	$2,980,947.66
	2007	$2,103,251.46	$1,511,269.18	$3,614,520.64
	2008	$1,092,668.22	$1,243,855.32	$2,336,523.54
	2009	$1,641,698.50	$1,793,502.79	$3,435,201.29
	2010	$3,258,238.06	$19,850,057.30	$23,108,295.36
Education America, Inc.	2006	$0.00	$59,859.38	$59,859.38
	2007	$0.00	$113,752.59	$113,752.59
	2008	$44,524.00	$56,082.21	$100,606.21
	2009	$18,183.74	$22,690.19	$40,873.93
	2010	$340,611.65	$2,562,636.10	$2,903,247.75
Education Management Corp.	2006	NO BREAKOUT PROVIDED		$217,571.77
	2007	NO BREAKOUT PROVIDED		$394,176.02
	2008	NO BREAKOUT PROVIDED		$676,842.99
	2009	NO BREAKOUT PROVIDED		$2,039,710.81
	2010	NO BREAKOUT PROVIDED		$52,469,077.71
Grand Canyon Education, Inc.	2006	$220,528.58	$0.00	$220,528.58
	2007	$470,346.33	$0.00	$470,346.33
	2008	$738,209.25	$0.00	$738,209.25
	2009	$1,637,330.33	$0.00	$1,637,330.33
	2010		NO DATA PROVIDED	
Henley-Putnam University	2006	$0.00	$0.00	$0.00
	2007	$21,279.00	$54,573.00	$75,852.00
	2008	$172,581.00	$347,384.00	$519,965.00
	2009	$295,592.00	$853,003.00	$1,148,595.00
	2010		NO DATA PROVIDED	
Herzing Educational System	2006	$7,320.00	$0.00	$7,320.00
	2007	$0.00	$0.00	$0.00
	2008	$2,750.00	$268,649.33	$271,399.33
	2009	$32,676.00	$772,004.18	$804,680.18
	2010	$46,000.00	$871,401.97	$917,401.97
	2010 Projected	*$75,306.96*	*$1,426,578.94*	*$1,501,885.90*
ITT Educational Services, Inc.	2006	$0.00	$0.00	$0.00
	2007	$0.00	$0.00	$0.00
	2008	$0.00	$0.00	$0.00
	2009	$0.00	$20,852,677.99	$20,852,677.99
	2010	$0.00	$50,696,494.57	$50,696,494.57
	2010 Projected	*$0.00*	*$101,392,989.14*	*$101,392,989.14*
Kaplan Higher Education (Owned by Washington Post Co.)	2006	$2,089,589.51	$498,798.23	$2,588,387.74
	2007	$2,369,904.04	$425,830.28	$2,795,734.32
	2008	$2,418,545.39	$404,151.80	$2,822,697.19
	2009	$5,972,872.54	$4,402,022.45	$10,374,894.99
	2010	$6,331,145.68	$18,124,289.68	$24,455,435.36
	2010 Projected	*$12,662,291.36*	*$36,248,579.36*	*$48,910,870.72*
Keiser University	2006	$111,165.68	$321,450.19	$432,615.87
	2007	$86,536.96	$518,763.27	$605,300.23
	2008	$37,662.86	$803,384.53	$841,047.39
	2009	$105,582.62	$2,055,617.94	$2,161,200.56
	2010	$241,513.31	$4,000,701.62	$4,242,214.93
	2010 Projected	*$483,026.62*	*$8,001,403.24*	*$8,484,429.86*
Laureate Education, Inc.+	2006		NO DATA PROVIDED	
	2007		NO DATA PROVIDED	
	2008		NO DATA PROVIDED	
	2009		NO DATA PROVIDED	
	2010		NO DATA PROVIDED	
Lincoln Educational Services Co.	2006	$32,459.33	$228,605.96	$261,065.29
	2007	$76,337.52	$373,731.31	$450,068.83
	2008	$70,674.03	$348,491.30	$419,165.33
	2009	$178,680.11	$1,692,342.53	$1,871,022.64
	2010	$150,709.45	$4,308,982.78	$4,459,692.23
	2010 Projected	*$301,418.90*	*$8,617,965.56*	*$8,919,384.46*
National American University Holdings, Inc.	2006	$1,509,102.41	$137,834.34	$1,646,936.75
	2007	$1,657,352.56	$52,521.02	$1,709,873.58
	2008	$1,574,078.54	$55,651.56	$1,629,730.10
	2009	$1,682,427.90	$69,326.60	$1,751,754.50
	2010	$1,586,327.84	$1,159,039.09	$2,745,366.93

MILITARY EDUCATIONAL BENEFITS RECEIVED BY 30 FOR-PROFIT EDUCATION COMPANIES—Continued

Company	Fiscal year	Department of Defense education benefits	Department of Veterans Affairs education benefits	Total military education benefits
Rasmussen, Inc.	2006	NO BREAKOUT PROVIDED		$132,175.72
	2007	NO BREAKOUT PROVIDED		$166,960.14
	2008	NO BREAKOUT PROVIDED		$234,823.43
	2009	NO BREAKOUT PROVIDED		$444,169.05
	2010	NO BREAKOUT PROVIDED		$4,004,291.44
	2010 Projected	NO BREAKOUT PROVIDED		*$5,339,055.25*
Strayer Education, Inc.+	2006	$2,962,040.38	NO DATA PROVIDED	$2,962,040.38
	2007	$3,741,602.49	NO DATA PROVIDED	$3,741,602.49
	2008	$4,516,986.99	NO DATA PROVIDED	$4,516,986.99
	2009	$5,347,676.78	$5,385,138.68	$10,732,815.46
	2010	$3,335,773.12	$16,999,607.55	$20,335,380.67
	2010 Projected	*$6,671,546.24*	*$33,999,215.10*	*$40,670,761.34*
TUI University	2006		DID NOT EXIST	
	2007		DID NOT EXIST	
	2008	$16,609,992.55	$3,234,619.17	$19,844,611.72
	2009	$33,227,991.92	$5,868,491.67	$39,096,483.59
	2010	$38,595,867.15	$7,155,399.56	$45,751,266.72
Universal Technical Institute, Inc.	2006	$100,315.40	$1,492,759.54	$1,593,074.94
	2007	$160,044.19	$1,390,395.57	$1,550,439.76
	2008	$206,405.79	$1,403,107.49	$1,609,513.28
	2009	$209,842.94	$2,091,255.61	$2,301,098.55
	2010	$126,534.10	$10,701,869.77	$10,828,403.87
	2010 Projected	*$151,840.92*	*$12,842,243.72*	*$12,994,084.64*
Vatterott Educational Centers, Inc.*	2006	$0.00	$801,274.13	$801,274.13
	2007	$0.00	$733,508.98	$733,508.98
	2008	$0.00	$720,618.66	$720,618.66
	2009	$0.00	$1,468,029.08	$1,468,029.08
	2010	$0.00	$1,934,796.33	$1,934,796.33
	2010 Projected	*$0.00*	*$3,869,592.66*	*$3,869,592.66*

*Includes VA vocational rehabilitation funds.
+ Data combined with student cash payments.

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

Mr. HARKIN. Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Alabama.

DREAM ACT

Mr. SESSIONS. Mr. President, I wish to share a few thoughts about the legislation that I understand we will be voting on—at least voting on cloture—later this afternoon, and that is the DREAM Act. One of the major themes of the recent election was an idea revolving around an idea set forth in the Declaration of Independence—the idea that is a bedrock principle of our country—and that is the government derives its just powers from the consent of the governed.

Many Americans have believed for some time now that Washington has become disconnected from the people it serves. Indeed, a recent poll found that only one in five Americans believes the government is operating with the consent of the governed.

Now, on the heels of a historic midterm election, the Democratic leadership in this lameduck session is, I believe, further eroding those bonds of trust by refusing to listen and moving an amnesty bill that violates a clear American view that border security should be first. The American people are correct in that. It is not negative, mean-spirited. The American people understand, and I think Congress is coming to understand also, that ending the lawlessness at our borders is the first thing that must be done, and at some point after that we can then wrestle with what to do about people here illegally or else we are surrendering to lawlessness.

So our Democratic leaders have introduced now four versions of the DREAM Act in just the last 2 months—three in the last 2 or 3 days—a shell game that abuses the process. We have not had hearings on it in 7 years. Meanwhile, the DREAM Act has been proposed as a bill for ambitious youth on a track to graduate from high school or college and join the military. But the truth is far different from that talking point.

In reality, the DREAM Act would grant nearly unrestricted amnesty—a guaranteed path to citizenship—to millions of illegal aliens—adults and youth alike. They do not even need a high school diploma. They certainly do not need a college degree. And they do not need to join the military. In fact, the bill's eligibility provisions are so broad that even repeat criminal offenders would fall within its loose requirements and qualify for this masked amnesty.

The public has pleaded with Congress time and again to secure the border, but those pleas have been ignored by those who have been pushing this bill. Why aren't we seeing calls for that? Americans want us first to enforce the laws we have, but the bill will reward and encourage the violation of American laws. Americans want Congress to end the lawlessness, but this bill would have us surrender to it. It is a give-up type of approach.

Consider the DREAM Act's core features. It is not limited to children first. Illegal aliens as old as 30 or 35, depending on the bill, are eligible on the date of enactment, and they remain eligible to apply at any future age, as the registration window does not close. One does not need a high school diploma, a college degree, or military service. A person here illegally can receive indefinite legal status as long as they have a GED—the alternative to a high school diploma. They can receive that in a foreign language, and they can receive permanent legal status and a guaranteed path to citizenship as long as they then complete 2 years of college or trade school, but their status changes upon application after having a GED.

My faithful staff has just discovered and made a copy of this Google page, and it had 273,000 hits. The title of it is ''Fake Diploma,'' and it has places on here that one could obtain a fake diploma, fake degree, fake diplomas. Or how about another one: fake diplomas, fake degrees, fake GEDs, high school diplomas. Buy a GED, high school diploma, college diploma, college transcript, college degrees or high school transcripts at Diploma Company, your online source. It goes on down there: Fake diploma, fake diploma, fast delivery, fake diploma, transcript, birth certificate.

So this is not going to be easy to enforce. I would assure you we have insufficient personnel to go out and run down all these matters.

One version of the DREAM Act offers illegal aliens instate tuition, for which many Americans are not eligible. All four versions that are now pending provide illegal aliens with Federal education benefits, such as work-study programs, Federal student loans, and access to public colleges. These are already funded. We would like to have more money for these loan programs. But it has to be spread out, and the budget is tight. So more illegal aliens would then be rewarded by these programs.

The CBO—the Congressional Budget Office—has said the bill, over time, would add $5 billion to the national debt. But I believe the number is likely to be higher because CBO clearly failed to account for a number of major cost factors with the DREAM Act, including public education costs, chain migration, and fraud. Nor does the CBO take

into account what history has proven—that passing amnesty will incentivize even more illegality and lawlessness at the border.

I wish it weren't so, but experience teaches us that it is. If you are here illegally, and you have a young brother, a nephew, they can get into our country and get into a high school. They can't deny them if they are here illegally. So they can get a degree or GED, and they are put on a guaranteed path to citizenship. At the point that occurs, they can even make application for their family member to be given a priority—the one who was here illegally to begin with, who brought them here. That is the reality under our immigration procedure.

In addition, the CBO assumes a large portion of these individuals will obtain jobs, but there is no job surplus today. Indeed, there is a surplus of labor that can't find employment. So this score does not count unemployed American citizens who can't get jobs because of additional competition. Estimates conservatively say between 1.3 and 2.1 million illegal aliens will be immediately eligible for the DREAM Act's amnesty. But that number will grow significantly, as the bill has no cap or sunset. Moreover, those who do obtain legal status can do the same for their relatives, as I indicated.

Many with criminal records will also be eligible for the DREAM Act's amnesty. They simply must have less than three misdemeanor violations—less than three. Those potentially eligible would include drunk drivers, gang members, even those who have committed certain sexual offenses. Many of those are misdemeanors. And the most recent version of the bill also gives the Secretary of Homeland Security broad authority to wave ineligibility for even the most severe criminal offenders and those who pose even a threat to national security.

Mr. President, I was a Federal prosecutor and State attorney general. I know for a fact that every day, for a host of reasons—maybe a witness didn't show up, maybe the caseload is overwhelming—prosecutors allow people to plead to misdemeanors when the offense they have actually committed is a felony. So allowing a person to have three misdemeanors is a serious loophole and does not suggest that the criminal activity they have been participating in is insignificant or nonconsequential.

Surprisingly, those who commit document fraud or who lie to immigration authorities are eligible for the amnesty as well. This is particularly troubling as it contains a potential loophole for high-risk individuals to be placed on a pathway to citizenship. One of the warning signs missed prior to 9/11 was the fraudulent visa applications submitted by the 9/11 hijackers.

The DREAM Act even contains a safe harbor provision that would prevent many applicants from being removed as long as their application is pending, even if they have a serious criminal record. This provision would dramatically hinder our Federal authorities and will undoubtedly unleash a torrent of costly litigation.

One of the things that has been happening too much is what we call catch-and-release. People are apprehended and placed in jail and then they are released—illegal aliens—and told to report back to the court for a final disposition of their case. Not surprisingly, over 90 percent—I think 94 percent—don't show up. So when we allow these processes to be delayed significantly, it reduces the ability of the law enforcement officials to be able to process cases, and it allows many to be released on bail, whereupon they abscond and do not return.

Mr. President, how much time is left on this side?

The PRESIDING OFFICER. Twelve seconds.

Mr. SESSIONS. Twelve seconds. I thank the Chair.

So, Mr. President, this country needs to end the lawlessness, and after that is done—and it can be done shortly—the American people want us to wrestle with how to handle people who have entered our country illegally. The reverse is not true.

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

Mr. SESSIONS. They do not want us providing amnesty before the border is secure.

I thank the Chair, and I yield the floor.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Mr. President, I see the minority leader, Senator MCCONNELL, is on the floor. I will make a unanimous consent request, but I want to make certain he has his opportunity to speak.

So I would ask unanimous consent that after Senator MCCONNELL has completed his remarks, I be given 10 minutes to speak, and an equal amount of time offered to the Republican side of the aisle, before the first rollcall vote.

The PRESIDING OFFICER. Is there objection?

Mr. MCCONNELL. Did the Senator say 10 minutes?

Mr. DURBIN. Ten minutes each side, and I would offer the same amount to your side.

Mr. MCCONNELL. I would say to my friend from Illinois, we don't need 10 minutes.

Mr. DURBIN. Then I ask for 10 minutes to speak after the Senator has completed his remarks.

Mr. MCCONNELL. Is my friend from Illinois asking a consent?

Mr. DURBIN. I ask unanimous consent after Senator MCCONNELL completes his remarks that I have 10 minutes to speak, and I believe we will be able to accommodate everyone's schedule.

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

Mr. MCCONNELL. Mr. President, I am just going to proceed for a couple minutes on my leader time.

The PRESIDING OFFICER. The Senator is recognized.

DEMOCRATIC MISPLACED PRIORITIES

Mr. MCCONNELL. Mr. President, it is perfectly clear our friends on the other side are more interested in pleasing special interest groups than in addressing our Nation's job crisis. Once again, they are insisting the Senate spend its last remaining days before the end of the session voting on a liberal grab bag of proposals that are designed to fail. They don't even intend to pass these items. They just want to show they care enough to hold these show votes, which raises a question: Are we here to perform or are we here to legislate?

Our friends have focused on partisan votes for 4 years now. Meanwhile, millions of Americans have lost jobs and homes and in many cases hope. The Nation's debt has skyrocketed through misguided programs Americans did not want. It is time to put them aside and actually accomplish something the American people support. It is time to give back the legislative process to the people who sent us here.

That means preventing a tax hike that is about to slam every working American. It means doing something to address the jobs crisis, to give families and small businesses the tools they need to revive this economy and get people back to work. It is time to end the posturing and to work together to accomplish something, not for the liberal base, for the vast middle of America that needs us.

The White House has signaled its concern over the economy, that its policies are not helping, and that it is time to work with Republicans on forging a new path. We have reached a bipartisan agreement. It is time Democrats in Congress reach a similar conclusion and enable us to act for the good of the whole country. Americans are counting on us. They have waited long enough.

I yield the floor.

The PRESIDING OFFICER (Mr. MANCHIN). The Senator from Illinois.

THE DREAM ACT

Mr. DURBIN. Mr. President, I thank the minority for giving me this opportunity to speak. Later in this queue of votes there will be a vote on an issue known as the DREAM Act. I introduced this bill 10 years ago. What I am attempting to do in this bill is to try to resolve an item of great injustice in America.

All across this country are young boys and girls, young men and women who came to this country with their parents when they were only children, who were brought in by parents who were here in illegal status. They could have been parents who came here on a student visa and stayed beyond when

they were supposed to. But the children have been raised in America. They have grown up in this country.

I learned of this issue in Chicago when a young Korean-American mother called and said: My daughter, I brought her here when she was 2 years old and I never filed any paperwork. She just completed high school. She has been accepted at Juilliard School of Music. She is an accomplished pianist. What should I do?

When I contacted our immigration authorities, they said: Send her back to Korea. She is not an American citizen. She has no status in this country.

Multiply that story many times over and you will know why I introduced the DREAM Act. If you or I were driving down the highway and speeding, pulled over by a policeman and given a ticket, we would understand it. But if they also gave a ticket to your young daughter in the backseat, you would say: That is not fair. She wasn't driving. These children were not driving when their parents came to America, but they have been trying to drive through the obstacles that are here for all new immigrants into this country, and they have achieved some remarkable things.

I met these young men and women across America. They are inspiring in terms of what they achieve coming from poor immigrant families. They are the valedictorians of their classes, they are presidents and stars on the sports teams and the people who win the college bowls and they are undocumented. They have no country and they have no place to go.

So we said, in the name of compassion and justice, give these young people a chance. I introduced the bill 10 years ago and I have been fighting ever since to pass it and this afternoon we will have the chance to move to this bill, the DREAM Act. But we don't make it easy on these young people. Despite the fact that half the Hispanics in this country today do not graduate from high school, we require, for example, that all children covered by the DREAM Act must graduate from high school. As to this argument by the Senator from Alabama that they may go to a phony or fake high school, let me tell you these young people are going to be carefully scrutinized. They have to meet the test.

That is not all they have to meet. There will be other tests too. Have they been guilty of a felony or criminal activity beyond simple misdemeanors? It disqualifies them.

Have they engaged in voter fraud or unlawful voting? It disqualifies them. Have they committed marriage fraud? It disqualifies them. Have they abused the student visa? It disqualifies them. Have they engaged in any kind of activity that would create a public health risk? It disqualifies them.

For 10 years, these young people will have a chance to do one of two things: To enlist in our military—think of that. We have young undocumented people in this country today who are willing to risk their lives to serve in the U.S. military alongside our heroes, our men and women currently serving.

Let me tell you the story of one I have met. This is Cesar Vargas. This is an extraordinary young man who came to New York at the age of 5, brought here by his parents. When 9/11 occurred, Cesar Vargas went down to the recruiters' office and said: I want to sign up. I want to fight for my country.

They said: Mr. Vargas, this is not your country. You may have lived here all your life, but you have no place here. You cannot enlist.

He was disappointed, but he didn't quit. He went on to finish college. He is now in law school. Cesar Vargas is a student at the City University of New York School of Law, where he has a 3.0 GPA. He is fluent in Spanish, Italian, French and English and he is mastering Cantonese and Russian. When he graduates from law school, he will be a choice candidate at some major law firm, but that isn't what he wants to do. He wants to enlist in the military of the United States of America. He cannot do it today because Cesar Vargas, who has lived his entire life, to his knowledge, in this country, has no country. The DREAM Act will give him a chance to volunteer to serve America. If he does, it puts him on a path to become a citizen. I think that is fair.

We also say that if a young person completes 2 years of college, we will put them on the path to legalization. Do you know what percentage of undocumented students go to college today? Five percent, 1 out of 20. It is a huge obstacle for these people. Yet they are prepared to clear that obstacle and, if they do, they will wait for 10 years with conditional immigrant status. What does it mean? They have no legal rights for 10 years, even if they do these things—enlist in the military or go on to finish 2 years of college. For 10 years, they cannot draw a Pell grant, a Federal student loan, no Medicaid, no government health programs—they don't qualify for any of it for 10 years. Then, we put them in a process of another 3 years of close examination and scrutiny before they reach the stage of legalization—13 years.

Do you know what. Some of them are going to make that journey successfully because that is who they are. If you meet these young people, you will understand some of the things said on the floor are so wrong. These are the most energetic, idealistic young people you can meet in your life. They are tomorrow's lawyers and doctors and engineers. That is why major business groups have endorsed this legislation, saying we need this talent pool. That is why the Secretary of Defense has endorsed this legislation, saying we need these young men and women in our military to serve our Nation. We can give them a chance to serve, we can put them on a road that will be difficult but no more difficult than what they have gone through in their lives or we can say, no, wait for another day.

Some of my colleagues have said we will take up the DREAM Act once the borders of America are safe. I have signed up for every bill, virtually everything that has been proposed to make our borders safe. Come July, we put $600 million more into border protection. I didn't object. Do it. Let's make our borders safe. But for goodness' sake, is it fair to say to these young people you cannot have a life until our borders are the safest in the world, when we have the longest border in the world between the United States and Mexico? Keep working on making those borders safe but give these young people a chance. These people embody what I consider to be the immigrant spirit which makes America what it is today.

I am proud to stand here as the 47th Senator from Illinois and the son of an immigrant. My mother came to this country at the age of 2 from Lithuania, and I thank God her mom and dad had the courage to get on that boat and come over here and fight the odds and give me a chance to become an American citizen and a Senator.

That is what America is about. That is the story of our country, the strength, the determination of these immigrants and their children.

These people are important to our future. These young men and women deserve that chance, and we will have an opportunity today. I know some vote against it for a variety of reasons, and I don't question their motives at all, but I hope they get a chance to meet these young people. They are all over Capitol Hill. They do not have paid lobbyists. They are walking around, usually in graduation gowns and mortar boards because that is what they want, a chance to go to school and improve themselves. If you meet them and talk to them, you will be convinced, as I am, that this is the single best thing we can do for the future of our country, the single best thing we can do in the name of justice. This is our current challenge when it comes to the future of immigration.

I urge my colleagues on both sides of the aisle to ignore and set aside some of the arguments that have been made that do not stand up to scrutiny. To understand what we are doing in this bill is to give these young people a chance but to hold them to a standard which very few of us can live up to. We want to make sure they apply within 1 year of this bill passing. We want to make sure they have their chance to succeed. When they do, we will be a better nation for it.

All across this country the leaders at universities and colleges tell us these are the young people we want who will make this a better nation. Some of the arguments that have been made suggest this is going to be a piece of cake, it is so easy for these young people. It will not be. It will be a hard process and a difficult road to follow. But in the name of justice, in the name of fairness, give these young people a

chance—a chance to be part of this great country.

Every single one of us, but for those who were Native Americans here long before the White people arrived, have come to this country as immigrants—not this generation perhaps but in previous generations. Those who were African American have come against their will. The fact is, they are here, and they are what makes America the great Nation it is. Our diversity is our strength and these young people are as strong as they come.

Let's pass the DREAM Act. Let's make these dreams come true. Let's stand, once and for all, and say this just Nation not only has room but welcomes all this talent that has come to our shores.

I yield the floor.

Mrs. FEINSTEIN. Mr. President, I rise today in support of the DREAM Act. This important legislation would give eligible young people, who were brought to the United States as children, the opportunity to contribute meaningfully to the United States.

This bill addresses just one small piece of the immigration debate, but it has a profound impact on the lives of undocumented youth. I have supported the DREAM Act since it was first introduced in 2001 by Senators HATCH and DURBIN. Since then, the DREAM Act has had wide bipartisan support. It passed through the Senate Judiciary Committee twice.

Each year, approximately 65,000 undocumented youth graduate from American high schools. Most of these undocumented youth did not make a choice to come to the United States; they were brought here by their parents. Many of these young people grew up in the United States and have little or no memory of the countries they came from. They are hard-working young people dedicated to their education or serving in the Nation's military. They have stayed out of trouble. Some are valedictorians and honor roll students; some are community leaders, and have an unwavering commitment to serving the United States.

Through no fault of their own, these young individuals lack the immigration status they need to realize their potential. Because of their undocumented status, they are ineligible to serve in the military and face tremendous obstacles to attending college. For many, English is their first language and they are just like every other American student.

Now reaching adulthood, these young people are left with a dead end. They can't use their educations to contribute to their communities. They can't serve the country they call home by volunteering for military service.

The DREAM Act provides an opportunity for these students to fulfill the American dream. It would permit students to become permanent residents if they came here as children, are long-term U.S. residents, have good moral character, and attend college or enlist in the military for 2 years.

These students would have to wait for 10 years before becoming lawful permanent residents and undergo background and security checks and pay any back taxes. This is a multistep process, not a free pass.

In addition, DREAM Act eligible students would not be eligible for in State tuition at State colleges and universities or Federal education grants. These students would only be eligible for Federal work study and student loans.

The DREAM Act also contains tough criminal penalties for fraud and excludes students from participation in health insurance exchanges, Medicaid, food stamps, and other entitlement programs.

According to the Congressional Budget Office, the DREAM Act would increase Federal revenues by $2.3 billion over 10 years and increase net direct spending by $912 million between 2011 and 2020. In addition, the Congressional Budget Office and the Joint Committee on Taxation estimate that enacting the bill would reduce deficits by about $1.4 billion over 10 years.

I would like to tell you about a few college students in California, who would benefit from the DREAM Act.

Arthur Mkoian came to the United States from Armenia with his mother when he was 3 years old. Arthur attended Bullard High School in California, maintaining a 4.0 grade point average. Arthur graduated in 2008 as his class valedictorian. He is now in his second year at U.C. Davis, majoring in biochemistry. Arthur maintains A grades, and is on the Dean's Merit List. He hopes to continue on to study medicine, but without the DREAM Act, his future remains uncertain.

Nayely Arreola came to the United States with her parents and younger brother in 1989, when she was only 3 years old. Her family made their home in California, working hard to succeed. The family was taken advantage of by a negligent immigration attorney, who was later disbarred, who took away their chance to legalize their status. Despite this, Nayely is an excellent student. She was the first member of her family to graduate high school and went on to graduate from Fresno Pacific University. While she was in college, Nayely maintained outstanding grades and became president of her class.

Ivan Rosales came to the United States when he was 10 months old. His family settled in San Bernardino, CA, where Ivan excelled in school. He found out about his undocumented status in the 7th grade when he could not accept an award he earned at a science fair because he didn't have a Social Security number. Ivan is a presidential scholar who graduated within the top 1 percent of high school graduates in San Bernardino County. He is currently a senior at the California State University and is a pre-med biology major. He hopes to become a doctor in the army someday and says that it would be an honor to provide care to the brave men and women risking their lives for this country.

The United States is worse off if it lets the talents of these young people go to waste. They have demonstrated their commitment to this country's ideals through their academic success, leadership, and dedication to their communities. It is in the Nation's best interest to provide talented young people the ability to become full members of our society.

The DREAM Act has widespread support from labor, business, education, civil rights, and religious groups, who recognize that the potential of these young people should not be lost.

The presidents and chancellors of several universities including the University of California, California State University, the University of Washington, Arizona State University, the University of Minnesota, the University of Utah, and Washington State University recently wrote a joint letter expressing their support of the DREAM Act. In that letter, they state that in this age of international economic competition, ''the U.S. needs all of the talent that it can acquire and these students represent an extraordinary resource for the country . . . it is an economic imperative.''

Businesses such as the Microsoft Corporation support the DREAM Act. The Microsoft Corporation believes in the DREAM Act because, ''It is essential to our nation's competitiveness and success to nurture the talent we have and to incorporate bright, hardworking students into the workforce to become the next generation of leaders in this country.''

Retired GEN Colin Powell, a former Chairman of the Joint Chiefs of Staff and a former Secretary of State, and other current and former military leaders support the DREAM Act because it would greatly enhance military recruitment. The DREAM Act is included in the Department of Defense's fiscal year 2010–2012 Strategic Plan to help the military ''shape and maintain a mission-ready All Volunteer Force.''

In 2006, then-Under Secretary of Defense David Chu testified that many of the DREAM Act eligible students have the attributes needed in the military—''education, aptitude, fitness, and moral qualifications.'' They should not be prevented from joining the military because of their undocumented status.

These students have been raised in the United States and educated here. Often times, they did not choose to be here, but this is the only home they know. They have worked hard to graduate from high school under adversity. Many are willing to make the ultimate sacrifice to serve in the military of this country—the country they feel is their own. They are class presidents, gifted athletes and musicians, aspiring scientists, engineers, teachers, and physicians. We should not put up a barrier to their potential to give back to this country. Instead, we should pass the DREAM Act and allow these students to succeed.

Mrs. MURRAY. Mr. President, one of the many values that makes America so great is that no matter where we start off from in life, we believe that we all deserve to have a shot at the American dream.

We all deserve an opportunity to work hard, support our families, and give back to the Nation that has been there for us all of our lives.

This is an American value I cherish. It is one I feel very strongly we ought to maintain and strengthen. And it's why I stand here today to talk about the DREAM Act, which would help us do exactly that.

This bill is about giving those that know no other country but the United States an opportunity.

An opportunity to give back as a successful member of society, an opportunity to serve in the military and to risk their lives to defend the values we hold dear, an opportunity to reach a legal status that allows them to come out of the shadows, and an opportunity to reap the benefits of the fact that they have worked hard and played by the rules.

The DREAM Act would allow a select group of undocumented students a path to become permanent residents if they came to this country as children, are long-term U.S. residents, have good moral character, and attend college for at least 2 years or enlist in the military.

Under this bill, tens of thousands of well-qualified potential recruits would become eligible for military service for the first time.

These are young people who love our country and are eager to serve in the Armed Forces during a time of war.

It would also make qualified students eligible for temporary legal immigration status upon high school graduation which would lead to permanent residency if they attend college.

And most importantly—it would tell young people—who have studied, who have worked multiple jobs, who have often overcome poverty and hurdles that few other young people face—that the American dream is alive and well.

This is about our values as a Nation.

But it is also about real communities. And real people in my home State of Washington and across the country.

I recently heard from a student named Jessica who is a senior at Washington State University.

Jessica shared how she is on the verge of completing her degree and would like nothing more than to continue on to get her master's degree in education so she could give back to her community.

But like so many young people who would benefit from passage of this bill, for Jessica this is simply not a reality.

Because we cannot move this bill, Jessica's dream of helping to improve our education system has been dashed.

Jessica writes that while the rest of her classmates attend career fairs and interviews she battles with the nightmare of having to do menial labor for the rest of her life or returning to a country she has never known.

She ended her letter about the chance this bill would provide her by saying the following:

The DREAM Act is the only hope that I have to be a productive citizen in the future.

I am amazingly thankful for the opportunities that this country has offered me and my family and the only thing that I want to do is to give back.

I would like to be given the opportunity and privilege to be able to obtain the American Dream which is entitled to the citizens of this beautiful country.

Please don't continue to close the doors on exemplary individuals.

We want to become a part of this nation and continue to live on the values and principles written in the Constitution because this is the only way we know.

The only way that can happen—the only way any of these young people can get that shot—is if we pass this bill.

Jessica is just one of the young people whose life this affects—but I have received hundreds of stories just like hers.

And this issue touches so many more across the country.

This bill is a first step towards fixing an immigration system that is clearly broken with real solutions that will help real people.

And for me, this isn't just about immigration, it is about what type of country we want to be.

America has long been a beacon of hope for people across the world.

And I believe that to keep that beacon bright we need to make sure young people are given a shot at the American dream.

The dream that was there for me, that is there for my children and grandchild, and that is there for millions of others across this great country.

So once again, I am calling on Senate Republicans to end their long efforts to block this legislation.

Let's pass this bill today. Let's allow young people who have lived nearly their entire lives here to help boost our economy, help enrich our schools, and help defend our country.

Let's get back to common sense.

And let's keep working toward comprehensive immigration reform that helps our economy, affords the opportunities we have offered to generations of immigrants, maintains those great American values that I hold so dear, and improves our security.

Mr. BROWN of Massachusetts. Mr. President, I come to the floor today because I have not forgotten what happened on September 11, 2001. I have not forgotten the brave men and women who risked their lives and lost their lives on that fateful day when 19 men brought the fight against terrorism to our American shores.

Today the Senate held a procedural vote on whether to proceed to a House bill that would create a program dedicated exclusively to provide screening and treatment to the first responders and other men and women who participated in rescue efforts at the World Trade Center.

As I have said repeatedly, the intent of the House bill and the work of my colleague, Mrs. GILLIBRAND, are honorable and good. As I have said in every meeting that I have held—whether meeting with firefighters and police officers in Massachusetts, whether it be with Mayor Bloomberg of New York City or New York City Police Commissioner Kelly—I support their efforts and their good work and dedication to make sure that none of the heroes from September 11, 2001, are left behind or forgotten.

We should not forget the lives that were lost that day. The lives that were risked that day. And those who continue to live with scars from that day. And I can assure you, we won't.

I agree with my colleague, Mrs. GILLIBRAND that the House bill is a good start on how we can provide benefits to the first responders but that we need to do so in a realistic and pragmatic way.

Like many of my colleagues, I do not agree with how the House proposes to pay for these benefits. Taxing businesses—especially in this economic environment—is not a realistic way to generate revenue. And I think my colleague from New York and others agree that raising taxes on businesses to the tune of billions of dollars is neither appropriate nor realistic.

I am encouraged that the Senators from New York are serious about seeking a compromise and finding an alternative mechanism to provide a funding source. They have offered additional ideas for how we can provide these benefits. And I have offered ideas on how we can provide these benefits. This is not an easy task. Finding nearly $8 billion in funding that will garner enough support in the Senate is not easy.

I remain committed to working with my colleagues on this issue.

Mr. DODD. Mr. President, I rise today to speak in support of the Public Safety Employer-Employee Cooperation Act, a bipartisan measure that will guarantee our Nation's law enforcement officers, firefighters and emergency medical personnel the right to bargain collectively with their employers. I have been proud to work with Senator GREGG on this important legislation for many years. I also want to acknowledge my good friend, Senator Ted Kennedy, who long championed this bill.

Now more than ever, the risks taken by our first responders are greater than they have ever been. From the increased risk of terrorist attacks, to the catastrophic hurricanes, tornadoes, and wildfires that have ravaged our country from coast to coast, each and every day we ask more from our emergency workers, and they always rise to the challenge. These are people who have chosen to dedicate their lives to serving their communities—making the streets safe, fighting fires, providing prehospital emergency medical care, conducting search-and-rescue missions when a building collapses or a natural disaster occurs, responding to hazardous materials emergencies, and so much more.

The Public Safety Employer-Employee Cooperation Act provides these brave men and women with basic rights to bargain collectively, a right that workers in many other industries have

used effectively to improve relations with their supervisors. This bill is carefully crafted to allow States a great deal of flexibility to implement plans that will work best from them. All it requires is that States provide public safety workers with the most basic collective bargaining rights—the right to form and join unions and to collectively bargain over wages, hours, and working conditions. It also will require a mechanism for settling any labor disputes. These are rights that a majority of States, including my home State of Connecticut, already provide these workers, and this bill does nothing to interfere with States whose laws already provide these fundamental rights.

This bill will allow States to continue enforcing right-to-work laws they may have on the books, which prohibit contracts requiring union membership as a condition of employment. This bill even allows States to entirely exempt small communities with fewer than 5,000 residents or fewer than 25 full-time employees.

Importantly, this bill takes every precaution to ensure that the right to collectively bargain will not interfere with the critical role these workers play in keeping our communities safe. It explicitly prohibits any strikes, lockouts, or other work stoppages. But the key to this bill is truly to foster a cooperative atmosphere between our first responders and the agencies they work for. Cooperation between labor and management will inevitably lead to public safety agencies being better able to serve their communities. Unions can help ensure that vital public services run smoothly during a crisis, and this bill will further that goal.

I would add that this legislation enjoys enormous bipartisan support. During the 110th Congress, the House passed it by a vote of 314–97, and the Senate voted to invoke cloture by a vote of 69–29. In the 111th Congress, the Cooperation Act has five Republican cosponsors, including the lead sponsor, Senator GREGG. Moreover, the House version has 50 Republican cosponsors. In an era that is all too often dominated by party-line votes, this is an extraordinary show of support from both parties. That is because we recognize the unique and essential role these workers play in every single community, and we recognize that by granting them these basic rights they will be able to better serve those communities.

This bill addresses some of the most critical concerns of our Nation's first responders. It goes beyond negotiating wages, hours and benefits. In this circumstance, for this group of people, it means so much more. It means that the men and women who run into burning buildings, resuscitate accident victims, and patrol the streets of our towns and cities can sit down with their supervisors to relate their real life experiences. They can discuss their concerns and use their on-the-ground expertise to help improve their service to the community. Granting our first responders this basic right is not only in their best interest—it is in all of our best interests. It will allow these men and women to better serve their communities by fostering a spirit of cooperation with the agencies and towns that employ them.

When tragedies have struck us, from the September 11 attacks to Hurricane Katrina, it is these workers who are the first people on the scene and the last to leave. We owe them everything, and all they have asked of us in return is dignity and respect in the workplace. They stand with us every single day on the job, and it is time we stand with them. I urge all my colleagues to join me and the millions of first responders who form the backbone of our Nation's homeland security by voting to pass this crucial legislation.

CLOTURE MOTION

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion to invoke cloture.

The bill 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. 662, S. 3991, the Public Safety Employer-Employee Cooperation Act of 2010.

Harry Reid, Patrick J. Leahy, Tom Harkin, Carl Levin, Daniel K. Inouye, Richard J. Durbin, Byron L. Dorgan, Jack Reed, Jeff Bingaman, Dianne Feinstein, Mark Begich, Robert Menendez, Daniel K. Akaka, Sherrod Brown, Sheldon Whitehouse, Patty Murray, Debbie Stabenow, Barbara Boxer.

Mr. SESSIONS. Mr. President, parliamentary inquiry: Was there 10 minutes to both sides?

Mr. DURBIN. Mr. President, Senator MCCONNELL said his side did not want the 10 minutes.

Mr. SESSIONS. I ask unanimous consent to have 3 additional minutes before we vote.

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

Mr. SESSIONS. Just briefly, I would say to my distinguished colleague, Senator DURBIN, who I know cares deeply about this issue, I think there is not an injustice today. The law is if you are born here, even from illegal parents, you are a citizen. But if you come into the country or are brought into the country, you are here illegally. That is what the law is. It is not an injustice to enforce the law.

No. 2, I would note that millions of people apply and wait for citizenship, but these individuals who came illegally—maybe at age 14, 15, 16—apply and get to the head of the line over people who have waited for a long time. I do not know that that is justice.

The military already allows people who are not citizens and people who are illegally in the country to join the military and they are given citizenship.

Lots of them achieve citizenship that way. This bill is not necessary to do that. For 10 years, the cost is scored by CBO. It is $5 billion. There is a cost. In addition, for Pell grants—these are grants, not loans students get to go to college—these individuals would be eligible for those as soon as they get in college, after even a GED instead of a high school diploma.

This idea that we are already doing enough at the border and we are doing everything that is possible, I would note this administration has not completed the fence Congress authorized. We are not deporting people effectively. They have sued the State of Arizona that tried to help the Federal Government enforce the law. They have refused to make the E-Verify Program permanent. No workplace raids are being conducted. They were stopped soon after this administration took office.

So I would say, for a host of reasons, we are not doing what can be done and should be done to bring the lawlessness to an end, and to therefore put us in a position to wrestle, as a nation, with how to deal with people who violated the law and came illegally.

I yield the floor.

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

The question is, Is it the sense of the Senate that the debate on the motion to proceed to S. 3991, a bill to provide collective bargaining rights for public safety officers employed by States or their political subdivisions, shall be brought to a close?

The yeas and nays are mandatory under the rule.

The clerk will call the roll.

The bill clerk called the roll.

Mr. KYL. The following Senators are necessarily absent: the Senator from Kansas (Mr. BROWNBACK) and the Senator from New Hampshire (Mr. GREGG).

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

The yeas and nays resulted—yeas 55, nays 43, as follows:

[Rollcall Vote No. 266 Leg.]

YEAS—55

Akaka	Gillibrand	Nelson (NE)
Baucus	Harkin	Nelson (FL)
Bayh	Inouye	Pryor
Begich	Johnson	Reed
Bingaman	Kerry	Reid
Boxer	Klobuchar	Rockefeller
Brown (OH)	Kohl	Sanders
Cantwell	Landrieu	Schumer
Cardin	Lautenberg	Shaheen
Carper	Leahy	Specter
Casey	Levin	Stabenow
Conrad	Lieberman	Tester
Coons	Lincoln	Udall (CO)
Dodd	Manchin	Udall (NM)
Dorgan	McCaskill	Webb
Durbin	Menendez	Whitehouse
Feingold	Merkley	Wyden
Feinstein	Mikulski	
Franken	Murray	

NAYS—43

Alexander	Bond	Chambliss
Barrasso	Brown (MA)	Coburn
Bennet	Bunning	Cochran
Bennett	Burr	Collins

Corker	Inhofe	Roberts
Cornyn	Isakson	Sessions
Crapo	Johanns	Shelby
DeMint	Kirk	Snowe
Ensign	Kyl	Thune
Enzi	LeMieux	Vitter
Graham	Lugar	Voinovich
Grassley	McCain	Warner
Hagan	McConnell	Wicker
Hatch	Murkowski	
Hutchison	Risch	

NOT VOTING—2

Brownback	Gregg

The PRESIDING OFFICER. On this vote the yeas are 55, the nays are 43. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

The majority leader.

Mr. REID. Mr. President, as always happens, there are always bumps in the road here in the Senate, most of which we don't foresee. We have scheduled now four votes. We are going to move to the next one as soon as we can. The House of Representatives is in the process of voting on the DREAM Act, but they may not get to it for a couple of hours. I need to have them finish their vote before we vote over here. So having said that, we may be in a little downtime here after we finish this vote for a couple of hours or whenever we can get to it. They have to have that vote completed over there. They know we are in a hurry. We also will get today from them the continuing resolution that will allow us to do something about spending. I am doing my best to work through these issues, including the issue that has overwhelmed us all the last few days, and that is the framework for the tax thing that has been negotiated. The main reason for interrupting is the next two votes will not flow automatically. We need to do them sometime tonight. I am working with Senator COLLINS and Senator LIEBERMAN, Senator LEVIN and others to try to come up with some way to move forward on the Defense bill. We will see if that can be done. There are a lot of other things going on around here such as the START treaty and a few other things. We are trying to work through that. I am sorry we will not be able to proceed right through these votes, but we may have to have a downtime for a few hours.

EMERGENCY SENIOR CITIZENS RELIEF ACT OF 2010—MOTION TO PROCEED

CLOTURE MOTION

The PRESIDING OFFICER. There are now 4 minutes of debate equally divided prior to the next vote.

The Senator from Vermont.

Mr. SANDERS. Mr. President, I would like a minute and a half, and I will yield to Senator WHITEHOUSE the remaining 30 seconds.

The reality today is that millions of senior citizens and disabled vets are hurting. They are spending a whole lot of money on prescription drugs, a whole lot of money on health care. Yet for the last 2 years they have not gotten any COLA because, in my view, of a poor methodology in terms of how we determine COLAs for senior citizens.

What this amendment does is provide a one-time $250 check to senior citizens and disabled vets. That is what it does. This amendment is supported by AARP, the largest senior group in America; the American Legion; Veterans of Foreign Wars; the National Committee to Preserve Social Security and Medicare, and virtually every senior group and every veterans organization.

People are wondering how it could be that we could provide $1 million in tax breaks to the richest people in this country but we cannot come up with $250 for struggling seniors and disabled vets.

I hope my colleagues will support this important piece of legislation.

I yield to my colleague from Rhode Island.

Mr. WHITEHOUSE. Mr. President, Rhode Island seniors get an average Social Security benefit of $13,500 a year, which makes it tough sledding to live on in the cold Northeast in the wintertime.

The COLA adjustment is misfiring for seniors. Their heating costs go up, their prescription costs go up, their pharmaceutical costs go up, and we have missed the COLA twice. We fixed it in 2008 with a one-time vote. We fixed it in 2009 with a one-time vote. Let's please do it again for 2010 and support Senator SANDERS' amendment and not be scrooges to our seniors while we are being fabulously generous to megamillionaires.

Mr. LEAHY. Mr. President, on October 15, 2010, we learned that next year Social Security beneficiaries will not receive a cost of living adjustment for the second year in a row because of the economic deflation, rather than inflation, our economy experienced in 2010. At a time when the economy continues to lag and seniors in Vermont and around the country will struggle to afford heat, food, and other daily living expenses, I believe strongly that Congress needs to act to help seniors who depend upon Social Security benefits.

For decades, Social Security has represented a strong commitment to our Nation's seniors. Ever since Ida May Fuller of Vermont received the first Social Security check issued, vulnerable seniors have had a safety net to fall back on in retirement and to supplement individual retirement savings or pensions. Nearly 70 percent of beneficiaries depend on Social Security for at least half of their income, and Social Security is the sole source of income for 15 percent of recipients.

I was proud to join Senator SANDERS once again in cosponsoring the Emergency Senior Citizens Relief Act, which would provide all Social Security recipients, railroad retirees, SSI beneficiaries and adults receiving veterans' benefits with a one-time additional check for $250 in 2010, similar to the payment beneficiaries received as a part of the American Recovery and Reinvestment Act. Today, we have the opportunity to move to debate this important emergency relief for America's seniors.

This legislation would benefit 58 million Americans and over 120,000 Vermonters, far too many of whom have seen a decline in their living standards as the economy worsened. The National Committee to Preserve Social Security and Medicare Foundation and the Economic Policy Institute issued a report this fall that showed similar payments included in the Recovery Act to seniors stimulated the economy and was an effective job creator. A minority of Senators, however, plan on once again blocking this legislation from a full debate in the Senate. The minority party seems content to bend over backwards to pass an extension of tax cuts to the wealthiest Americans, which will add hundreds of billions of dollars to the deficit, but helping seniors in tough economic times is just too costly a proposition. That is unfortunate, and I hope for enough support in the Senate to move this legislation forward.

By supporting this bill, Senators have the opportunity to express our continued commitment to providing a safety net to our Nation's seniors and those with disabilities in this uncertain economy. I urge my fellow Senators to support the motion to invoke cloture on the Emergency Senior Citizens Relief Act.

The PRESIDING OFFICER. Who yields time?

Mr. MCCONNELL. Mr. President, we yield back the time on this side.

The PRESIDING OFFICER. All time is yielded back.

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. 655, S. 3985, the Emergency Senior Citizens Relief Act of 2010.

Harry Reid, Richard J. Durbin, Bernard Sanders, Sherrod Brown, Debbie Stabenow, Sheldon Whitehouse, Patrick J. Leahy, Byron L. Dorgan, John D. Rockefeller, IV, Charles E. Schumer, Al Franken, Barbara A. Mikulski, Jack Reed, Frank R. Lautenberg, Kirsten E. Gillibrand, Mark Begich, Robert P. Casey, Jr., Tom Udall.

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

The question is, Is it the sense of the Senate that debate on the motion to proceed to S. 3985, a bill to amend the Internal Revenue Code of 1986 to extend certain expiring provisions, and for other purposes, 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. KYL. The following Senators are necessarily absent: the Senator from

Kansas (Mr. BROWNBACK) and the Senator from New Hampshire (Mr. GREGG).

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

The yeas and nays resulted—yeas 53, nays 45, as follows:

[Rollcall Vote No. 267 Leg.]

YEAS—53

Akaka	Franken	Murray
Baucus	Gillibrand	Nelson (NE)
Bayh	Harkin	Nelson (FL)
Begich	Inouye	Pryor
Bennet	Johnson	Reed
Bingaman	Kerry	Reid
Boxer	Klobuchar	Rockefeller
Brown (OH)	Kohl	Sanders
Cantwell	Landrieu	Schumer
Cardin	Lautenberg	Shaheen
Carper	Leahy	Specter
Casey	Levin	Stabenow
Conrad	Lincoln	Tester
Coons	Manchin	Udall (NM)
Dodd	McCaskill	Webb
Dorgan	Menendez	Whitehouse
Durbin	Merkley	Wyden
Feinstein	Mikulski	

NAYS—45

Alexander	Ensign	Lugar
Barrasso	Enzi	McCain
Bennett	Feingold	McConnell
Bond	Graham	Murkowski
Brown (MA)	Grassley	Risch
Bunning	Hagan	Roberts
Burr	Hatch	Sessions
Chambliss	Hutchison	Shelby
Coburn	Inhofe	Snowe
Cochran	Isakson	Thune
Collins	Johanns	Udall (CO)
Corker	Kirk	Vitter
Cornyn	Kyl	Voinovich
Crapo	LeMieux	Warner
DeMint	Lieberman	Wicker

NOT VOTING—2

Brownback	Gregg

The PRESIDING OFFICER. On this vote, the yeas are 53, the nays are 45. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

The majority leader.

MORNING BUSINESS

Mr. REID. Mr. President, I ask unanimous consent that we go into a period of morning business until 6:30 tonight, and that Senators be allowed to speak for up to 10 minutes each.

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

The Senator from Arkansas.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

REJECTION OF COST OF LIVING ADJUSTMENT

Mr. BROWN of Ohio. Mr. President, I stand here simply amazed at what happened in the Senate, although I probably shouldn't be. I stand here amazed because in these economic times, senior citizens from Gallipolis to Ashtabula, to Middletown, to Toledo, in my State, and from the Iron Range to Rochester, MN, the State of the Presiding Officer, and all across this country, who didn't get a cost-of-living adjustment this year; who are victims of inflation—medical inflation especially—and the inflation rate is not very high in our society, so they didn't get a cost-of-living adjustment, even though their cost of living has gone up—every single Republican in this institution—every single Republican—voted no on a $250 one-time check to go to senior citizens. It would have meant the equivalent of about 1½ percent or less than that cost-of-living adjustment.

If they are so interested in balancing the budget that they do not want to do that, maybe that is one argument—although not a very good one in these economic times—but when, in the same week, they sign a letter saying we are not going to do anything—every single Republican signed a letter saying we are not going to do anything in the Senate—we are not voting yes on anything until we get the tax cut for millionaires and billionaires, that is pretty outrageous.

In the tax cut they are asking for, someone who makes $10 million a year gets a $40,000 tax cut—I am sorry, somebody making $10 million a year gets a $100,000 tax cut, I believe; somebody making $1 million gets a $40,000 tax cut. And they are saying they are willing to vote for that, but they are not willing to vote for $250 for every senior citizen in this country.

The cost of that, if you want to get in the weeds and talk about budget issues, the cost of that $250 that Senator SANDERS sponsored would be about $13 billion. The cost of these tax cuts for the wealthy is about $700 billion over the next 10 years.

Basically, what they are doing, what we are doing for their tax cuts for the wealthy is in essence borrowing $700 billion from China and putting it on our children's and grandchildren's credit card to pay off later—let them worry about it—and giving that money to millionaires and billionaires. They are willing to do that, but they will not vote $250, a total of $13 billion one time. They are not willing, for this year, to help those seniors in Youngstown and Lima and Zanesville and Chillicothe and Tipp City, OH. I just don't get it.

I know it is the Christmas season. That is not a reason to do it, but you would think there would be a little more generosity in their hearts during this most difficult time for seniors who are barely making it. The average senior citizen in this country gets about $14,000 Social Security a year. Many seniors in my State, in places such as Columbus and Dayton and Portsmouth, live on not much more than their Social Security check, and a $250 payment would have made a difference—maybe not having to split their medicine in two and taking half a dosage each time or maybe actually being able to heat their homes as it gets colder and colder as the winter comes upon us, that they would have a little opportunity to at least do that and live a little more comfortably.

Instead this place again said yes to tax cuts for the rich, no to the senior citizens. A majority of Senators voted for this, but every single Republican voted against it. I don't get it. I don't mean to sound partisan, but when it is like that it is unbelievable. When Senators—most of us are going to go home and enjoy our holidays—that we would put our Nation's seniors through something like that.

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

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

Mr. COBURN. I ask unanimous consent to speak in morning business for the time I may consume, probably not longer than 20 or 25 minutes.

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

THE BUDGET

Mr. COBURN. Mr. President, I hope the American people are watching Washington right now. We are at a defining moment in our country. There is not anybody in this body who does not recognize that our country is on an unsustainable course. They know it. It is well known. The world knows it. We can argue about how close we are to the debt crisis and the liquidity crisis, but no one disputes that one is coming. We just don't know when. Yet in the next 2 weeks Congress is going to make that problem $1 trillion worse.

We can say that a lot of what we are doing is the right thing to do, but what we are not doing is addressing the real issues that need to be accompanied by grownups as we look at this. What should the American people make of this? It is kind of like we are on the Titanic here in America and everybody is saying: The bar is open, we will just have a party the next 2 weeks. We are going to spend another $900 billion or we are going to set it up so that it can be spent.

I do not often agree with a columnist by the name of Thomas Friedman, but he has a column today that I think everyone in our collective body should read. It is aptly titled ''Still Digging.'' Here, he writes: Given where we need to go, this tax deal—this tax deal, opportunity scholarship deal, unemployment deal, tax holiday deal—is just another shot of morphine to a country that needs to do things that are big and hard and still only wants to do things that are easy and small. He concludes: Economics is not war. It can be win-

win. So it can be good for the world if China is doing better, but it can't be good for America if, every time we come to a hard choice, we borrow more money from a country that is not just outsaving and outhustling us but is also starting to outeducate us. We need a plan.

I couldn't agree with him more. I was part of the deficit commission, taken a lot of criticism for saying we needed to have that debate on the Senate floor. I still think we need to have that debate on the Senate floor. But this body will not even agree about having a debate about having a plan.

Last week, the members of the debt commission refused to even debate the plan—the Members refused to even debate the plan in Congress. We didn't get 14 out of 18 votes; we only got 11.

I wish to congratulate Senator DURBIN, Senator CONRAD, Senator CRAPO, and Senator GREGG for their efforts on that commission. You see, they think we need a plan. Senator CONRAD had a wonderful statement about it. He said this: The only thing that is worse than being for this plan is being against it. What he was really addressing is the fact that we are not willing to make the hard choices. We will not come together and do what is best for America. What we will do is just take another shot of morphine, drink another drink on the Titanic, and hope that somehow it gets better.

The fact is, we already have a debt commission. It is called the U.S. Congress. That is why I voted initially against the debt commission. I spent 8 months, had a full-time staffer working on that commission for the last 8 months. We are the debt commission. We have to have a plan to avert the catastrophe that is in front of us.

America needs to know it is urgent. It is not something that can wait a year. We are going to have a major liquidity crisis, and we are also going to have a major interest rate crisis. Nobody knows when it comes. But the one thing we do know is that if we don't have a plan, we will no longer control our ability to get out of our problem; the people who own our debt will control how we get out of our problem.

So if, in fact, we want to hand over our responsibility in the Senate to the bondholders of the world, then we should continue to not have a plan. But if, in fact, we want to embrace the oath we were given, then we should have a plan.

As we debate over the next 2 weeks coming up to Christmas, part of that debate has to be whether we are grown up enough to recognize that the party is over and that we better start bailing water, we better form the line, the bucket brigade; otherwise, we are going to go down with the ship.

Now, people can say: You are scaring people.

That is realism. That is what is getting ready to happen to us. Mr. Bernanke cannot solve our problems in this regard. Only we can solve these problems for the American people.

Cutting spending should be the easy part of our solution. We can document hundreds of billions of dollars a year that are either wasted, defrauded, or duplicative in the Federal Government. I have given hundreds of speeches over the last 6 years outlining those things, whether it be the $5 billion the Pentagon pays to contractors for performance bonuses when those contractors do not meet the performance requirements to get the bonus or the $80 to $100 billion a year in fraud in Medicare and Medicaid. Those are facts—the fact that we pay three times as much for a motorized wheelchair as it costs. We have not done anything to address any of those issues. It is not hard to cut spending. It is hard to get the will to have a plan that recognizes that we have to keep on keeping on until we get America out of this very dangerous time period we are experiencing.

We just learned that we rank 25th in the world in math, 17th in science. Yet we have 105 different, separate government programs to incentivize excellence in science, technology, engineering, and math. This is just a tiny little example of the work we need to do. We need to have one plan. It needs to have measurements on it. We need to oversight it. Then we need to look at it the next year. Is it working? Is it effective? We have 105 sets of bureaucrats, and we have not made the headway we all know is required for us to be competitive in a global economy. Yet not once this year, not once last year, not when Republicans were in control, not when Democrats were in control, did we do the effective oversight that is necessary to get us out of the jam we are in.

Oversight is hard work. It is not easy. It requires that we actually know what is going on in the government, which is part of our oath to begin with. We have to do the work, we have to read it, we have to go to the hearings, we have to interview the people, and we have to have investigators so we know what is going on. Yet we do not do that.

I often hear from my colleagues on the other side that we need to pay for the so-called Bush tax cuts, which are really your tax cuts. The assumption is that once the money comes to the government at a certain rate, it is always going to come, and it is not yours, it is the government's.

Let's grant that premise for a minute. Let's grant the premise that it is the government's money and not the individual's. I would issue this challenge: Anyone who thinks we ought to pay for tax cuts ought to have to put up a list of programs that we ought to eliminate to pay for them. I put up, every time, when people are wanting to spend money, a list of options we can do to make it to where we do not increase the very problem holes we keep digging in.

The fact is, the body is not interested in cutting spending, and the proof is what we did last year. The very same people who claim we need to pay for the tax cuts uniformly voted to override pay-go to the tune of $266 billion last year, just in this last year—not this whole Congress, just this last year.

So what we need to do is move away from that rhetoric. The problem is too big for us to take pot shots at each other on what we think is a political point. And we need to get down to the real business of having a plan that gets this country out of the very real difficulties we face. The very fact that we do not know when the problem is coming, the very fact that we cannot control our own destiny unless we start taking action now should give us all chills, that we are about to be the Senate, the Congress of the United States that allowed this to happen.

We cannot let that happen, no matter what our positions are. The only way we get out of the hole we are in is if we make shared sacrifices. That means political sacrifices. That means position sacrifices. That means monetary sacrifices. That means sacrifices against our wish list. It means we all have to sacrifice.

Some people say it is suicide to tell the American people they have to sacrifice. I adamantly disagree with that. They are grown up. They get it way ahead of us. They have already seen what is happening to us. They are feeling it now. They have this innate sense that we are disconnected from the very real problems they are seeing. They are ready to do their part.

I will borrow a line from someone far more eloquent, J.F.K. I remember; I was in high school.

> Ask not what your country can do for you, but ask what you can do for your country.

It was a great statement then. It is more appropriate now than ever.

What does a shared sacrifice mean? It means that if you live in this country and make a decent income, you need to be more responsible with your health care and retirement than you are today. If you have gamed the system to get disability benefits or workmen's compensation, sorry, your free ride is over. If you are receiving a special tax break because you have a good lobbyist, you are going to have to give that up. If you are a defense contractor, you might only get a bonus for doing exceptional work, not standard work, not for just showing up to work. And if you are a politician, it might mean you have to lose an election to do what is best for this country.

If we think about what is required and how we would achieve real change, we have two truths in tension: One, we have a government we tolerate; two, the American people have the power to change that government.

We can solve all of the difficult challenges before us, but we can't solve them if Washington will not even debate the problem. And if we can't overcome our courage deficit, the American people have a responsibility to replace us all—to replace every one of us.

Courage is having the fortitude to do the right thing for the right moral reason at the right time regardless of the consequences to you. And we lack that in our body politic today.

I know a lot of people see this tax deal as a big political victory. I do not see it as a victory at all for the country or for our side.

Actually, a former Bush staffer, Don Bartlett, is quoted as saying:

> We knew that, politically, once you get it into law, it becomes almost impossible to remove it. That's not a bad legacy. The fact that we were able to lay the trap does feel pretty good, to tell you the truth.

This gentleman just ignored the magnitude, severity, and urgency of the problems that face America.

The political cynicism that accompanies this should give us all pause to think for a minute on the games that are being played in Washington. Congratulations. Somebody embarrassed somebody else.

How does making our entitlement dilemma worse by passing Medicare Part D feel? It is now up to $13 trillion in unfunded liability, and the rich get the same benefit as the poor; does that feel good? How about doubling the size of the government since 1999; does that feel good, especially at a time when fraud, waste, and abuse has doubled? Does it feel good that we have done nothing to reform Social Security in the years since people applauded in the middle of the State of the Union address because of President Bush's failed effort to fix Social Security? Does that feel good? Did that solve something or was that political showmanship? That belies the history of this body of coming together.

Our Founders created the Senate to try to force consensus. That is what the rules were all about. What we need to do, Democrats and Republicans and our Independent colleagues, is recognize the depth and magnitude of our problem right now. There needs to be a great big time out. Who cares who is in charge if there is no country to run that can be salvaged? It doesn't matter.

Economists worldwide and some of the brightest people at Harvard and MIT, the University of Texas, Pennsylvania, they don't sleep at night right now. They know we are on the razor-thin edge of falling over a cliff.

The fact is, both parties have laid a trap for future generations by our inaction, our laziness, our arrogance, and a crass desire for power. We are waterboarding the next generation with debt. We are drowning them in obligations because we don't have the courage to come together and address or even debate a real solution.

The reason I voted for the deficit commission report? It had a lot of stuff in it I absolutely hated. It had one thing in it Oklahoma can't tolerate that will have to be changed. But the fact is, I believed the problem was so big and so urgent and so necessary that we ought to have that debate. We ought to make sure the American people know the significance of the problems facing us. Both Senator CONRAD and Senator DURBIN have taken heat. Guys on our side of the aisle have taken heat because we dared to say we should have a debate about the real problems that face this country. The special interests immediately started attacking from both sides.

That tells me we were doing some good. I often hear my colleagues assert the power of the purse when it comes to earmarking, but I never hear the same thing when we talk about trying to cut spending. The bias is to spend, not to cut spending. We are either going to do it or outside financial forces are going to force us.

Look what has happened so far this year with some other countries. In the first column of this chart, we see the debt in U.S. dollars in fixed terms. The second is what they have done in terms of government spending. In terms of debt, we, of course, lead the world, $13.8 trillion. We have France at $2 trillion, Germany at $1.46 trillion, Spain $602 billion, United Kingdom $1.47 trillion, and Canada. Every one of them froze or reduced the pay of their Federal employees. Every one of them cut their Federal workforce. Every one of them cut Federal spending by significant amounts. What have we done? A big goose egg, zero. That is what we have done. So no wonder the world does not have confidence and no wonder our business investment isn't coming in. We haven't created an environment where they would have confidence.

There is no question when the tax bill goes through we will see a bump up in confidence. When people get 2 percent more on their paycheck, we will see some bump up. But it will be short-lived.

The problem is not the tax deal but the fact that we are not addressing our real problems. We are addressing the symptoms of the problem. Does a 2-year extension give businesses, small and large, the confidence they need to plan for the future? I certainly hope so. But tax reform that had a meaningful effect on future capital investment would do a whole lot more. The problem is, we are not even willing to consider the hard choices. We will not even have an honest debate about a debate about hard choices. We just want to take our shot of morphine and go on down the road, have another martini on the deck of the Titanic.

The history of our country, at least what I saw growing up from the 1940s to the 1950s, the 1960s and the 1970s, was that our Nation thrived because we always embraced the heritage of service and sacrifice when our future was at stake. We actually have seen some of that in the last 10 years. I challenge my colleagues to go to Gettysburg or Philadelphia or visit ground zero and ask: What went through the minds of the brave young Americans when the doors of their landing craft opened on Omaha Beach? What motivated the heroes on flight 93 on 9/11 when they stormed a cockpit occupied by terrorists? What did our Founders think when they signed the Declaration of Independence, knowing their lives and fortunes were on the line? They were thinking about the future. They were making that critical decision to have courage in the face of adversity and take with it what may come. But they knew doing the correct and honorable and right thing was more important than their reputation or any other thing they had.

Here is what one of our Founders thought. Almost 234 years ago, on December 19, 1776, Thomas Paine was contemplating the great and uncertain struggle that lay ahead in our battle for independence and freedom. He said: ''If there must be trouble, let it be in my day, that my child may have peace.''

At the time of Christmas and Hanukkah, isn't that what we want for those who follow, peace of mind to not be threatened by what we have set up as an unsustainable debt dungeon?

I think we ought to have it in our day. Let it be our day. Let it be today. Let it be started with this debate we will have on the tax bill that will come before us. Let's make the effort to come to a consensus that we have to have a plan. It doesn't have to be my plan or the plan of Senator BENNET, but we have to have a plan. We have to signal to the rest of the world that we are willing to start making some of the appropriate sacrifices and generate the austerity that will allow us to continue this wonderful experiment. We are now facing the most predictable crisis in our history. We are doing nothing to avert the catastrophe, nothing, zero. In fact, we are still digging. It is time we stopped digging.

How will we be remembered? As a generation of politicians who saw a gathering storm and took action or a generation of politicians who put off the hard choices of honor and dishonored the sacrifices of our past?

We do have a choice. We can choose to come together and work to solve this problem in the very short term that will have a tremendous impact in the long term. What we don't have is a lot of time. As I heard somebody say today: Time fritters away so fast in Washington. It goes by so fast. We are all so busy. There is no problem in front of us in any committee, on any issue that is greater than the problems facing this country. We need to come together across the aisle to put a plan together that will give security to not only the generations that come and are here already but the peace of mind to know we are listening, we understand, and we are willing to make and lead by example in the sacrifices that have to come for us to solve the problems.

I yield the floor.

The PRESIDING OFFICER. The Senator from Colorado is recognized.

Mr. BENNET. Mr. President, I rise to talk about the proposed tax compromise. Before doing that, since the

Senator from Oklahoma is on the floor, I wished to say how grateful I am for his courage in supporting the bipartisan commission's report on the deficit and the debt. His vote for that, as well as the votes of Senators CRAPO, DURBIN, and CONRAD, in 22 months in this place, this is the first time I have felt any confidence that we may actually be moving in the right direction. I wish to thank him for casting that vote. No one who voted for that, Democratic Senator or Republican Senator, agrees with everything that is in the package. But what we do agree with is that we need a plan to get this right. That is what we need to do.

There is a lot of talk in this town about whose side are you on. I hear that all the time. I will tell one quick story from the campaign trail. Every single townhall meeting I had, the issue of the deficit and the debt came up, profound anxiety among the people of my State that we are going to leave less opportunity, not more, to our kids and grandkids. I share the Senator's view that time is short. If we don't make these decisions, the capital markets are going to make them for us. It will not be like that frog in the boiling water. One morning, one day somebody in the capital markets is going to wake and say: I am not going to buy your paper anymore at that price. We are going to see our interest rates go through the roof, and we will see economic turmoil far worse than we have been going through now, the worst recession since the Great Depression.

I would talk about this in these meetings, about how we need to come together, Republicans and Democrats, and actually start solving the problems. The frustration people had—Democrats and Republicans, Tea Party people, unaffiliated voters—at our inability to work together to create solutions. I would say we have a moral obligation to the next generation to get this straightened out so we don't constrain their choices. The problem is even more urgent for our kids and grandkids.

I was lucky enough that my daughters came with me on a lot of these trips. They sat through a lot of these townhall meetings. I remember one morning my daughter Caroline followed me out. She is now 11 years old. She had heard about the constraints we were putting on the next generation. She tugged at my sleeve on the sidewalk and she said: Daddy, just to be clear—she was making fun of me because I overuse that expression—I am not paying that back.

When people ask me the question, whose side am I on, I am on Caroline's side. I am on the side of the 850,000 children going to Denver's public schools who don't deserve to be left what we are at risk of leaving them.

I want the Senator to know I will work with anybody, Republican or Democrat, in this Chamber in the time that I am here to make sure we are not that generation of Americans that leaves less, not more, behind.

I wish to talk briefly tonight about the discussions around taxes. I have been a strong supporter of a long-term extension of the middle-class tax cuts, estate tax reform that supports our small businesses, farmers and ranchers and extension of unemployment insurance for Coloradans who are struggling to find their way during this difficult economy.

Over the last year, in the very townhall meetings I was just talking about, Coloradans over and over have shared their frustration with me about Washington's complete failure to come to an agreement and by both parties' lack of willingness to even discuss a compromise. I could not agree with them more.

The bottom line is simple and straightforward. These tax cuts will expire in less than 4 weeks if we do nothing. If we do nothing, hundreds of thousands of Coloradans will see a tax increase and thousands more will lose their unemployment benefits in the worst recession since the Great Depression. This is completely unacceptable to them and to me.

If I were writing this bill, it would look different than the compromise. It would propose a 1-year extension of all tax cuts. I said that during the campaign because I felt it was important for us to have the time to figure out how we were actually going to pay for these tax cuts. So it would be for 1 year. It would be a longer term extension for the middle class. I would raise the exemption level for the estate tax but keep rates at the 2009 level.

I wished to say that, at the end of the day, while I am going to look for opportunities to make improvements to this framework and listen to other people's ideas as well, I intend to support the compromise. I am not convinced delaying this legislation until next year will produce a better bill. I am convinced it will create huge uncertainty for people all over my State and around the country, at a time when the last thing we can afford is uncertainty. The reality is, the new Congress might likely produce something far worse than the agreement that has been reached.

Whenever I cast a vote, I do so focused on the danger caused by our medium-term and long-term debt. That is why I have supported multiple measures to get spending under control. In this case, I think it would be far worse to weaken a fragile economic recovery by letting the middle-class tax cuts expire, throwing thousands of Coloradans off the unemployment rolls simultaneously.

Moving forward, we desperately need a more constructive and honest conversation about how we are going to turn our economy around for the long term. I will work with anyone—Democrat or Republican—to develop a Tax Code that actually encourages innovation, lifts innovation in the United States, builds back our middle class, and brings jobs back to Colorado and the rest of the country.

I will close by saying this: We face grave challenges, both economic and fiscal, at this moment in our country's history. The message I got loudly and clearly over the last 22 months is that people want to see us working together and solving problems. That is what I intend to do.

TAXPAYER ASSISTANCE ACT OF 2010

Mr. BENNET. Mr. President, I ask unanimous consent that the Finance Committee be discharged from H.R. 4994, the Taxpayer Assistance Act of 2010, and that the Senate then proceed to its immediate consideration.

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

The clerk will state the bill by title.

The assistant legislative clerk read as follows:

A bill (H.R. 4994) to amend the Internal Revenue Code of 1986 to reduce taxpayer burdens, enhance taxpayer protection, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Mr. BENNET. Mr. President, there is a substitute amendment at the desk, and I ask that the amendment be considered and agreed to; that the bill, as amended, be read the third time; and that after the reading of the Budget Committee pay-go letter, the bill, as amended, be passed; and that the title amendment, which is at the desk, be considered and agreed to; further, that any statements relating to the measure be printed in the RECORD.

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

The amendment (No. 4742), in the nature of a substitute, was agreed to.

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

The amendment (No. 4743) was agreed to, as follows:

Amend the title so as to read: ''An Act to extend certain expiring provisions of the Medicare and Medicaid programs, and for other purposes.''.

The PRESIDING OFFICER. The clerk will read the pay-go letter.

The assistant legislative clerk read as follows:

Mr. Conrad: This is the Statement of Budgetary Effects of PAYGO Legislation for H.R. 4994, as amended.

Total Budgetary Effects of H.R. 4994 for the 5-year Statutory PAYGO Scorecard: net increase in the deficit of $2.278 billion.

Total Budgetary Effects of H.R. 4994 for the 10-year Statutory PAYGO Scorecard: net decrease in the deficit of $17.276 billion.

Also submitted for the RECORD as part of this statement is a table prepared by the Congressional Budget Office, which provides additional information on the budgetary effects of this Act, as follows:

ESTIMATE OF THE STATUTORY PAY-AS-YOU-GO EFFECTS FOR H.R. 4994, AN ACT TO EXTEND CERTAIN EXPIRING PROVISIONS OF THE MEDICARE AND MEDICAID PROGRAMS, AND FOR OTHER PURPOSES (AS INTRODUCED ON DECEMBER 7, 2010—ERN10381; ASSUMED ENACTMENT LATE DECEMBER 2010)

[By fiscal year, in millions of dollars]

	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2011–2015	2011–2020
	Net Increase or Decrease (−) in the On-Budget Deficit											
Total On-Budget Changes	12,035	7,038	299	−742	−1,849	−2,893	−3,626	−4,037	−4,336	−4,662	−16,782	−2,772
Less:												
Current-Policy Adjustment for Medicare Payment to Physicians [1]	9,624	4,881	0	0	0	0	0	0	0	0	14,505	14,505
Statutory Pay-As-You-Go Impact	2,412	2,157	299	−742	−1,849	−2,893	−3,626	−4,037	−4,336	−4,662	2,278	−17,276

Notes: Components may not sum to totals because of rounding. This legislation would freeze Medicare's payment rates for physicians' services at the current level through the end of December 2011 and extend many other expiring provisions in Medicare. Additionally, the legislation would limit the aggregate amount recovered from reconciliation of income used for determining eligibility for tax credits provided through health insurance exchanges.

[1] Section 7(c) of the Statutory Pay-As-You-Go Act of 2010 provides for current-policy adjustments related to Medicare payments to physicians.

Sources: Congressional Budget Office, Staff of the Joint Committee on Taxation.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill (H.R. 4994), as amended, was read the third time and passed, as follows:

H.R. 4994

Resolved, That the bill from the House of Representatives (H.R. 4994) entitled ''An Act to amend the Internal Revenue Code of 1986 to reduce taxpayer burdens and enhance taxpayer protections, and for other purposes.'', do pass with the following amendments:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Medicare and Medicaid Extenders Act of 2010''.

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

TITLE I—EXTENSIONS

SEC. 101. PHYSICIAN PAYMENT UPDATE.

Section 1848(d) of the Social Security Act (42 U.S.C. 1395w–4(d)) is amended by adding at the end the following new paragraph:

''(12) UPDATE FOR 2011.—

''(A) IN GENERAL.—Subject to paragraphs (7)(B), (8)(B), (9)(B), (10)(B), and (11)(B), in lieu of the update to the single conversion factor established in paragraph (1)(C) that would otherwise apply for 2011, the update to the single conversion factor shall be 0 percent.

''(B) NO EFFECT ON COMPUTATION OF CONVERSION FACTOR FOR 2012 AND SUBSEQUENT YEARS.—The conversion factor under this subsection shall be computed under paragraph (1)(A) for 2012 and subsequent years as if subparagraph (A) had never applied.''.

SEC. 102. EXTENSION OF MMA SECTION 508 RECLASSIFICATIONS.

(a) EXTENSION.—

(1) IN GENERAL.—Section 106(a) of division B of the Tax Relief and Health Care Act of 2006 (42 U.S.C. 1395 note), as amended by section 117 of the Medicare, Medicaid, and SCHIP Extension Act of 2007 (Public Law 110–173), section 124 of the Medicare Improvements for Patients and Providers Act of 2008 (Public Law 110–275), and sections 3137(a) and 10317 of the Patient Protection and Affordable Care Act (Public Law 111–148), is amended by striking ''September 30, 2010'' and inserting ''September 30, 2011''.

(2) SPECIAL RULE FOR FISCAL YEAR 2011.—

(A) IN GENERAL.—Subject to subparagraph (B), for purposes of implementation of the amendment made by paragraph (1), including (notwithstanding paragraph (3) of section 117(a) of the Medicare, Medicaid, and SCHIP Extension Act of 2007 (Public Law 110–173), as amended by section 124(b) of the Medicare Improvements for Patients and Providers Act of 2008 (Public Law 110–275)) for purposes of the implementation of paragraph (2) of such section 117(a), during fiscal year 2011, the Secretary of Health and Human Services shall use the hospital wage index that was promulgated by the Secretary of Health and Human Services in the Federal Register on August 16, 2010 (75 Fed. Reg. 50042), and any subsequent corrections.

(B) EXCEPTION.—Beginning on April 1, 2011, in determining the wage index applicable to hospitals that qualify for wage index reclassification, the Secretary shall include the average hourly wage data of hospitals whose reclassification was extended pursuant to the amendment made by paragraph (1) only if including such data results in a higher applicable reclassified wage index. Any revision to hospital wage indexes made as a result of this subparagraph shall not be effected in a budget neutral manner.

(3) ADJUSTMENT FOR CERTAIN HOSPITALS IN FISCAL YEAR 2011.—

(A) IN GENERAL.—In the case of a subsection (d) hospital (as defined in subsection (d)(1)(B) of section 1886 of the Social Security Act (42 U.S.C. 1395ww)) with respect to which—

(i) a reclassification of its wage index for purposes of such section was extended pursuant to the amendment made by paragraph (1); and

(ii) the wage index applicable for such hospital for the period beginning on October 1, 2010, and ending on March 31, 2011, was lower than for the period beginning on April 1, 2011, and ending on September 30, 2011, by reason of the application of paragraph (2)(B);

the Secretary shall pay such hospital an additional payment that reflects the difference between the wage index for such periods.

(B) TIMEFRAME FOR PAYMENTS.—The Secretary shall make payments required under subparagraph (A) by not later than December 31, 2011.

(b) CONFORMING AMENDMENT.—Section 117(a)(3) of the Medicare, Medicaid, and SCHIP Extension Act of 2007 (Public Law 110–173) is amended by inserting ''in fiscal years 2008 and 2009'' after ''For purposes of implementation of this subsection''.

SEC. 103. EXTENSION OF MEDICARE WORK GEOGRAPHIC ADJUSTMENT FLOOR.

Section 1848(e)(1)(E) of the Social Security Act (42 U.S.C. 1395w–4(e)(1)(E)) is amended by striking ''before January 1, 2011'' and inserting ''before January 1, 2012''.

SEC. 104. EXTENSION OF EXCEPTIONS PROCESS FOR MEDICARE THERAPY CAPS.

Section 1833(g)(5) of the Social Security Act (42 U.S.C. 1395l(g)(5)) is amended by striking ''and ending on'' and all that follows through ''2010'' and inserting ''and ending on December 31, 2011''.

SEC. 105. EXTENSION OF PAYMENT FOR TECHNICAL COMPONENT OF CERTAIN PHYSICIAN PATHOLOGY SERVICES.

Section 542(c) of the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000 (as enacted into law by section 1(a)(6) of Public Law 106–554), as amended by section 732 of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (42 U.S.C. 1395w–4 note), section 104 of division B of the Tax Relief and Health Care Act of 2006 (42 U.S.C. 1395w–4 note), section 104 of the Medicare, Medicaid, and SCHIP Extension Act of 2007 (Public Law 110–173), section 136 of the Medicare Improvements for Patients and Providers Act of 2008 (Public Law 110–275), and section 3104 of the Patient Protection and Affordable Care Act (Public Law 111–148) is amended by striking ''and 2010'' and inserting ''2010, and 2011''.

SEC. 106. EXTENSION OF AMBULANCE ADD-ONS.

(a) GROUND AMBULANCE.—Section 1834(l)(13)(A) of the Social Security Act (42 U.S.C. 1395m(l)(13)(A)) is amended—

(1) in the matter preceding clause (i), by striking ''2011'' and inserting ''2012,''; and

(2) in each of clauses (i) and (ii), by striking ''January 1, 2011'' and inserting ''January 1, 2012'' each place it appears.

(b) AIR AMBULANCE.—Section 146(b)(1) of the Medicare Improvements for Patients and Providers Act of 2008 (Public Law 110–275), as amended by sections 3105(b) and 10311(b) of Public Law 111–148, is amended by striking ''December 31, 2010'' and inserting ''December 31, 2011''.

(c) SUPER RURAL AMBULANCE.—Section 1834(l)(12)(A) of the Social Security Act (42 U.S.C. 1395m(l)(12)(A)) is amended by striking ''2011'' and inserting ''2012''.

SEC. 107. EXTENSION OF PHYSICIAN FEE SCHEDULE MENTAL HEALTH ADD-ON PAYMENT.

Section 138(a)(1) of the Medicare Improvements for Patients and Providers Act of 2008 (Public Law 110–275), as amended by section 3107 of the Patient Protection and Affordable Care Act (Public Law 111–148), is amended by striking ''December 31, 2010'' and inserting ''December 31, 2011''.

SEC. 108. EXTENSION OF OUTPATIENT HOLD HARMLESS PROVISION.

Section 1833(t)(7)(D)(i) of the Social Security Act (42 U.S.C. 1395l(t)(7)(D)(i)), as amended by section 3121(a) of the Patient Protection and Affordable Care Act (Public Law 111–148), is amended—

(1) in subclause (II)—

(A) in the first sentence, by striking ''2011''and inserting ''2012''; and

(B) in the second sentence, by striking ''or 2010'' and inserting ''2010, or 2011''; and

(2) in subclause (III), by striking ''January 1, 2011'' and inserting ''January 1, 2012''.

SEC. 109. EXTENSION OF MEDICARE REASONABLE COSTS PAYMENTS FOR CERTAIN CLINICAL DIAGNOSTIC LABORATORY TESTS FURNISHED TO HOSPITAL PATIENTS IN CERTAIN RURAL AREAS.

Section 416(b) of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (42 U.S.C. 1395l–4), as amended by section 105 of division B of the Tax Relief and Health Care Act of 2006 (42 U.S.C. 1395l note), section 107 of the Medicare, Medicaid, and SCHIP Extension Act of 2007 (42 U.S.C. 1395l note), and section 3122 of the Patient Protection and Affordable Care Act (Public Law 111–148), is amended by striking ''the 1-year period beginning on July 1, 2010'' and inserting ''the 2-year period beginning on July 1, 2010''.

SEC. 110. EXTENSION OF THE QUALIFYING INDIVIDUAL (QI) PROGRAM.

(a) EXTENSION.—Section 1902(a)(10)(E)(iv) of the Social Security Act (42 U.S.C. 1396a(a)(10)(E)(iv)) is amended by striking ''December 2010'' and inserting ''December 2011''.

(b) EXTENDING TOTAL AMOUNT AVAILABLE FOR ALLOCATION.—Section 1933(g) of such Act (42 U.S.C. 1396u–3(g)) is amended—

(1) in paragraph (2)—

(A) by striking ''and'' at the end of subparagraph (M);

(B) in subparagraph (N), by striking the period at the end and inserting a semicolon; and

(C) by adding at the end the following new subparagraphs:

''(O) for the period that begins on January 1, 2011, and ends on September 30, 2011, the total allocation amount is $720,000,000; and

''(P) for the period that begins on October 1, 2011, and ends on December 31, 2011, the total allocation amount is $280,000,000.''; and

(2) in paragraph (3), in the matter preceding subparagraph (A), by striking ''or (N)'' and inserting ''(N), or (P)''.

SEC. 111. EXTENSION OF TRANSITIONAL MEDICAL ASSISTANCE (TMA).

Sections 1902(e)(1)(B) and 1925(f) of the Social Security Act (42 U.S.C. 1396a(e)(1)(B), 1396r–6(f)) are each amended by striking ''December 31, 2010'' and inserting ''December 31, 2011''.

SEC. 112. SPECIAL DIABETES PROGRAMS.

(1) SPECIAL DIABETES PROGRAMS FOR TYPE I DIABETES.—Section 330B(b)(2)(C) of the Public Health Service Act (42 U.S.C. 254c–2(b)(2)(C)) is amended by striking ''2011'' and inserting ''2013''.

(2) SPECIAL DIABETES PROGRAMS FOR INDIANS.—Section 330C(c)(2)(C) of the Public Health Service Act (42 U.S.C. 254c–3(c)(2)(C)) is amended by striking ''2011'' and inserting ''2013''.

TITLE II—OTHER PROVISIONS

SEC. 201. CLARIFICATION OF EFFECTIVE DATE OF PART B SPECIAL ENROLLMENT PERIOD FOR DISABLED TRICARE BENEFICIARIES.

Effective as if included in the enactment of Public Law 111–148, section 3110(a)(2) of such Act is amended to read as follows:

''(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to elections made on and after the date of the enactment of this Act.''.

SEC. 202. REPEAL OF DELAY OF RUG–IV.

Effective as if included in the enactment of Public Law 111–148, section 10325 of such Act is repealed.

SEC. 203. CLARIFICATION FOR AFFILIATED HOSPITALS FOR DISTRIBUTION OF ADDITIONAL RESIDENCY POSITIONS.

Effective as if included in the enactment of section 5503(a) of Public Law 111–148, section 1886(h)(8) of the Social Security Act (42 U.S.C. 1395ww(h)(8)), as added by such section 5503(a), is amended by adding at the end the following new subparagraph:

''(I) AFFILIATION.—The provisions of this paragraph shall be applied to hospitals which are members of the same affiliated group (as defined by the Secretary under paragraph (4)(H)(ii)) and the reference resident level for each such hospital shall be the reference resident level with respect to the cost reporting period that results in the smallest difference between the reference resident level and the otherwise applicable resident limit.''.

SEC. 204. CONTINUED INCLUSION OF ORPHAN DRUGS IN DEFINITION OF COVERED OUTPATIENT DRUGS WITH RESPECT TO CHILDREN'S HOSPITALS UNDER THE 340B DRUG DISCOUNT PROGRAM.

(a) DEFINITION OF COVERED OUTPATIENT DRUG.—

(1) AMENDMENT.—Subsection (e) of section 340B of the Public Health Service Act (42 U.S.C. 256b) is amended by striking ''covered entities described in subparagraph (M)'' and inserting ''covered entities described in subparagraph (M) (other than a children's hospital described in subparagraph (M))''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect as if included in the enactment of section 2302 of the Health Care and Education Reconciliation Act of 2010 (Public Law 111–152).

(b) TECHNICAL AMENDMENT.—Subparagraph (B) of section 1927(a)(5) of the Social Security Act (42 U.S.C. 1396r–8(a)(5)) is amended by striking ''and a children's hospital'' and all that follows through the end of the subparagraph and inserting a period.

SEC. 205. MEDICAID AND CHIP TECHNICAL CORRECTIONS.

(a) REPEAL OF EXCLUSION OF CERTAIN INDIVIDUALS AND ENTITIES FROM MEDICAID.—Section 1902(a) of the Social Security Act (42 U.S.C. 1396a(a)) is amended by striking paragraph (78).

(b) INCOME LEVEL FOR CERTAIN CHILDREN UNDER MEDICAID.—Section 1902(l)(2)(C) of the Social Security Act (42 U.S.C. 1396a(l)(2)(C)) is amended by striking ''133 percent'' and inserting ''100 percent (or, beginning January 1, 2014, 133 percent)''.

(c) CALCULATION AND PUBLICATION OF PAYMENT ERROR RATE MEASUREMENT FOR CERTAIN YEARS.—Section 601(b) of the Children's Health Insurance Program Reauthorization Act of 2009 (Public Law 111–3) is amended by adding at the end the following: ''The Secretary is not required under this subsection to calculate or publish a national or a State-specific error rate for fiscal year 2009 or fiscal year 2010.''.

(d) CORRECTIONS TO EXCEPTIONS TO EXCLUSION OF CHILDREN OF CERTAIN EMPLOYEES.—Section 2110(b)(6) of the Social Security Act (42 U.S.C. 1397jj(b)(6)) is amended—

(1) in subparagraph (B)—

(A) by striking ''PER PERSON'' in the heading; and

(B) by striking ''each employee'' and inserting ''employees''; and

(2) in subparagraph (C), by striking '', on a case-by-case basis,''.

(e) ELECTRONIC HEALTH RECORDS.—Effective as if included in the enactment of section 4201(a)(2) of the American Recovery and Reinvestment Act of 2009 (Public Law 111–5), section 1903(t) of the Social Security Act (42 U.S.C. 1396b(t)) is amended—

(1) in paragraph (3)(E), by striking ''reduced by any payment that is made to such Medicaid provider from any other source (other than under this subsection or by a State or local government)'' and inserting ''reduced by the average payment the Secretary estimates will be made to such Medicaid providers (determined on a percentage or other basis for such classes or types of providers as the Secretary may specify) from other sources (other than under this subsection, or by the Federal government or a State or local government)''; and

(2) in paragraph (6)(B), by inserting before the period the following: ''and shall be determined to have met such responsibility to the extent that the payment to the Medicaid provider is not in excess of 85 percent of the net average allowable cost''.

(f) CORRECTIONS OF DESIGNATIONS.—

(1) Section 1902 of the Social Security Act (42 U.S.C. 1396a) is amended—

(A) in subsection (a)(10), in the matter following subparagraph (G), by striking ''and'' before ''(XVI) the medical'' and by striking ''(XVI) if'' and inserting ''(XVII) if'';

(B) in subsection (a)(23), by striking ''(ii)'' and inserting ''(kk)'';

(C) in subsection (a)(77), by striking ''(ii)'' and inserting ''(kk)'';

(D) in subsection (ii)(2), as added by section 2303(a)(2) of Public Law 111–148, by striking ''(XV)'' and inserting ''(XVI)''; and

(E) by redesignating subsection (ii), as added by section 6401(b)(1)(B) of Public Law 111–148, as subsection (kk) and transferring such subsection so as to appear after subsection (jj) of that section.

(2) Section 2107(e)(1) of the Social Security Act (42 U.S.C. 1397gg(e)(1)) is amended—

(A) in subparagraph (D), as added by section 6401(c) of Public Law 111–148, by striking ''(ii)'' and inserting ''(kk)''; and

(B) by redesignating the subparagraph (N) of that section added by 2101(e) of Public Law 111–148 as subparagraph (O).

SEC. 206. FUNDING FOR CLAIMS REPROCESSING.

For purposes of carrying out the provisions of, and amendments made by, this Act that relate to title XVIII of the Social Security Act, and other provisions of, or relating to, such title that ensure appropriate payment of claims, there are appropriated to the Secretary of Health and Human Services for the Centers for Medicare & Medicaid Services Program Management Account, from amounts in the general fund of the Treasury not otherwise appropriated, $200,000,000. Amounts appropriated under the preceding sentence shall be in addition to any other funds available for such purposes, shall remain available until expended, and shall not be used to implement changes to title XVIII of the Social Security Act made by Public Laws 111–148 and 111–152.

SEC. 207. REVISION TO THE MEDICARE IMPROVEMENT FUND.

Section 1898(b)(1)(B) of the Social Security Act (42 U.S.C. 1395iii(b)(1)(B)) is amended by striking ''$550,000,000'' and inserting ''$275,000,000''.

SEC. 208. LIMITATIONS ON AGGREGATE AMOUNT RECOVERED ON RECONCILIATION OF THE HEALTH INSURANCE TAX CREDIT AND THE ADVANCE OF THAT CREDIT.

(a) IN GENERAL.—So much of section 36B(f)(2)(B) of the Internal Revenue Code of 1986 as precedes clause (ii) thereof is amended to read as follows:

''(B) LIMITATION ON INCREASE.—

''(i) IN GENERAL.—In the case of a taxpayer whose household income is less than 500 percent of the poverty line for the size of the family involved for the taxable year, the amount of the increase under subparagraph (A) shall in no event exceed the applicable dollar amount determined in accordance with the following table

(one-half of such amount in the case of a taxpayer whose tax is determined under section 1(c) for the taxable year):

''If the household income (expressed as a percent of poverty line) is:	*The applicable dollar amount is:*
Less than 200%	*$600*
At least 200% but less than 250%	*$1,000*
At least 250% but less than 300%	*$1,500*
At least 300% but less than 350%	*$2,000*
At least 350% but less than 400%	*$2,500*
At least 400% but less than 450%	*$3,000*
At least 450% but less than 500%	*$3,500''.*

(b) CONFORMING AMENDMENT.—Section 36B(f)(2)(B)(ii) of such Code is amended by inserting ''in the table contained'' after ''each of the dollar amounts''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2013.

SEC. 209. DETERMINATION OF BUDGETARY EFFECTS.

(a) IN GENERAL.—The budgetary effects of this Act, for the purpose of complying with the Statutory Pay-As-You-Go Act of 2010, shall be determined by reference to the latest statement titled ''Budgetary Effects of PAYGO Legislation'' for this Act, submitted for printing in the Congressional Record by the Chairman of the Senate Budget Committee, provided that such statement has been submitted prior to the vote on passage.

(b) EMERGENCY DESIGNATION FOR CONGRESSIONAL ENFORCEMENT.—In the House of Representatives, this Act, with the exception of section 101, is designated as an emergency for purposes of pay-as-you-go principles.

Amend the title so as to read: ''An Act to extend certain expiring provisions of the Medicare and Medicaid programs, and for other purposes.''.

The PRESIDING OFFICER. The Senator from Tennessee is recognized.

TAX COMPROMISE

Mr. ALEXANDER. Mr. President, I was glad I had a chance to hear the Senators from Colorado and Oklahoma. I congratulate the Senator from Colorado on his reelection and look forward to working with him. He mentioned the importance of working across party lines. One area where we have the chance to do that, and where he can make an especially significant contribution, is in the area of fixing No Child Left Behind, the Elementary and Secondary Education Act. He has a lot of experience, earned the hard way on the ground, in that area. He is on the relevant committees, and I look forward to working with him.

Second, I join the Senator from Colorado in support for the tax plan agreed upon by the President and the Democratic and Republican leaders.

I have noticed that over the last two days, a large number of the news stories are about who wins and who gets political points for this tax agreement. I think the story is: the American people win. The focus of this Congress should be how to make it easier and cheaper to create private sector jobs. Virtually every economist who has come before us, either called by Democratic Senators or Republican Senators, has said raising taxes on anybody in the middle of an economic downturn makes it harder to create private sector jobs.

This tax agreement, which would stop the automatic increase of taxes for tens of millions of Americans, makes it easier and cheaper to create private sector jobs. So does the provision to provide 100 percent expensing for businesses. What that means is, companies that buy equipment in the next year can immediately deduct those costs. There is also a provision giving working people in this country during the next year a reduction by about one-third in what they pay on the payroll tax. That will mean these workers have more money in their pockets and perhaps they will spend it and perhaps that will help the economy grow as well.

In addition, there is the provision to give some certainty to the estate tax. Some want zero tax, some want 100 percent tax. But this comes to a common, reasonable decision for 2 years. No one on the Republican side of the aisle is completely happy with this agreement. We want the tax rates permanently extended where they are today or at least to not let them get higher. We believe that short-term decisions about taxes don't create the kind of certainty that does the best job of helping to create private sector jobs.

We welcome the fact that the President of the United States has accepted this as a part of an agreement, and at the same time, he has gotten the priority that he put a high goal on, which was the extension of unemployment compensation. Republicans don't like to see that passed in a way that adds to the debt. So we have some Democrats who don't like everything in the bill and also some Republicans who don't.

We have something we have not seen very much of for the last two years. Instead of ''we won the election, so we will write the bill,'' we have a different attitude: Let's sit down and talk and see what we can do for the good of the country. I think this will not only result in the tax bill being passed, I think it will result in it being accepted by the people of this country. I think it will help build confidence in our economic growth. I think it will help build confidence in the ability of our government to function and deal with big problems.

I congratulate the Democratic and Republican leaders of the Senate and the House and the President for bringing the agreement this far. We have a ways to go; it is not decided yet. But it is a good step in the right direction. Instead of scoring political points, for a change, I think we are trying to score some points for the American people. When they get their paychecks in the middle of January and see the lower withholding and when they find out the amount of taxes they are not going to have to pay in a tax increase, I think they are going to be grateful.

Today, I was thinking that a Tennessee small businessperson looking at next year might say: Well, they are not going to raise my taxes and take the money my company earned and give it to the government. Maybe I will spend some of that money to hire somebody or spend some of that money for new equipment since they will let me deduct those costs. Maybe I will go ahead and do that this year instead of over the next 2, 3, 4, or 5 years. Maybe that will help my business grow, and maybe I will hire somebody new.

Maybe it will say to the people who work at that company: I am going to have a little more money in my pocket, I will go out and spend it, and maybe I will buy some of the goods made in other small businesses and the economy will grow.

There is no doubt this adds to the deficit, but there are two ways to reduce the deficit. One is to reduce spending, which we must do. We have an opportunity to deal with that, as the Senator from Oklahoma talked about. The other way is to create new revenues, and the way you do that is economic growth.

This bill will help make it easier and cheaper to create private sector jobs. That is economic growth. That helps reduce the deficit.

I congratulate Senator COBURN, who spoke before the Senator from Colorado. Senator COBURN, Senator CRAPO, Senator GREGG, Senator CONRAD, and Senator DURBIN, the majority whip, all voted for the debt commission report. That was a courageous act on behalf of all five of them. It is one thing to go around the country saying we need to reduce the debt; it is another thing to take on a wide-ranging proposal that actually does that because it is very painful. You can't just say we are going to get rid of earmarks, which don't save a penny. You can't just say we are going to focus on discretionary spending, other than that which affects defense, which is 15 percent of the budget. You have to deal with things such as national defense and Social Security, and you have to deal with Medicare and Medicaid.

It is true the debt commission report didn't do as much on entitlements as I would like it to do. I am proud of the members of the commission. They have given us a serious proposal and I intend to take it seriously. I intend to do my best to support as many of its provisions as possible, so we can take a step forward, not just in creating private sector jobs but in attacking our other major goal, which is reducing spending so we can reduce the debt.

THE BAHA'I FAITH AND ABUSE OF ITS LEADERS IN IRAN

Mr. ALEXANDER. Mr. President, I have one other comment I would like to make while I am here. It involves the Baha'i faith and the abuse of its leaders in Iran.

I rise today to discuss an issue that some constituents of mine brought to

my attention when I was in Nashville this summer. We met to discuss the plight of the Baha'i in Iran.

The Baha'i faith was founded in Persia in 1844 and is one of the fastest growing religions in the world, with more than five million followers in more than 200 countries and territories. It is the largest non-Muslim religious community in Iran today.

Baha'i followers have been persecuted for their faith by the Iranian Government since their religion was established, but the frequency and severity of the persecutions has increased under the Presidency of Mahmud Ahmadi-Nejad. More than two years ago, a group of seven Baha'i leaders, often referred to as the ''Yaran'' or ''friends,'' were arrested. They were charged with pursuing propaganda activities against Islam and for spying on behalf of Israel. After more than two years of ''temporary'' confinement, the seven were tried in a closed court proceeding that did not meet even the minimum international standards for proper criminal procedure and protection of civil rights. The six men and one woman were each sentenced to 20 years in prison on August 8.

This is yet another example of the Iranian Government striking out against its own people. We saw violent examples of this in June of last year, when Iranian citizens began protesting the unfair Presidential election. Those who dare differ with the government face baseless charges, closed court proceedings, extremely harsh sentences, and possibly even death. The international community has expressed its outrage about the sentencing of this group, and Secretary of State Clinton issued a statement on August 12 that reaffirms our country's commitment to protecting religious freedom around the world, including that of the Baha'i in Iran.

This is more than a story from the other side of the world. There are more than 168,000 Baha'i in the United States. There are more than 2,000 in my home State of Tennessee. The men and women with whom I met in August have family members—fathers, mothers, sons, brothers, and in-laws—who have been arrested and imprisoned in Iran simply because of their faith. Their only request was that we, as Members of the United States Senate, continue to do all that we can to keep the spotlight on Iran and its persecution of peaceful citizens.

That is why I wanted to bring this matter to the attention of the Senate today. The United States has already imposed sanctions on Iran by enacting the Iran Sanctions Act. I hope by shining a spotlight on this extreme and continued abuse of peaceful adherence of the Baha'i faith by the Iranian Government, we can, No. 1, reaffirm our commitment to religious freedom around the world; and No. 2, make a little more uncomfortable the regime in Iran which perpetrates these crimes against its own people.

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

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

The legislative clerk proceeded to call the roll.

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

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

MIKHAIL KHODORKOVSKY TRIAL

Mr. WICKER. Mr. President, in June of this year, I joined my friend and colleague, Senator BEN CARDIN, on the Senate floor to discuss an issue of great concern to both of us and to many Americans and to many advocates of freedom and the rule of law internationally. That issue is the ongoing trial in Russia of Mikhail Khodorkovsky and his business partner, Platon Lebedev.

This trial, or what Gary Kasparov writing for the Wall Street Journal called ''the latest judicial travesty,'' came to a close November 2. A decision by the court is expected on December 15.

Khodorkovsky was first arrested in 2003 and convicted in 2005. This trial was unfair and politically motivated according to Western human rights groups, Western media, and many other independent observers. There is broad opinion that this second trial has been staged, has not provided the opportunity to judge facts in a clear, impartial manner, and in general has not honored the rule of law.

I know this is not a jury trial. The finder of fact is a single judge. Many have claimed that this judge has come under both direct and indirect pressure in this case. In addition, the prosecution has used language in closing arguments as if a guilty verdict had already been rendered. Sadly, there seems to be little hope for a just verdict from this second trial, and now Khodorkovsky and Lebedev will face the prospect of many more years in jail. These men have already served 7 years in prison and paid an unjust price for a politically inspired campaign against them. They have sacrificed much of their lives, their freedoms, and their rights. It is time for both men to be set free and for justice to be served in Russia.

This case is broader than Khodorkovsky and Lebedev as individuals. It raises the question about whether there are truly independent functioning institutions in Russia. A guilty verdict would show that when Russian authorities want to, they can act above the law, as they did in the first trial. It would also underscore that property rights in Russia are meaningless, sending a chilling message to investors and businesses alike, both domestically in Russia and internationally. I fear we will see more cases where rights are violated and the legal process undermined.

Thankfully, it is becoming increasingly difficult for Russian authorities to hide the illegitimacy of the charges and the process. Government officials, human rights activists, journalists, and others continue to raise questions about the legitimacy of this trial.

Some might suggest that we in the Congress and we in America should refrain from commenting on cases in a sovereign nation's court system. I disagree. I do not think this is true when a nation's court system is clearly not independent and is being used to undermine the rule of law and fundamental democratic principles.

I have led efforts to support congressional resolutions and hearings to draw attention to specific issues about this case because I believe they are symbolic of broader and disturbing trends in Russia. I and other colleagues in the Senate will continue to do so.

As I said in June of this year:

> The United States stands behind those who call for freedom from tyranny and justice around the world. We must continue to stand with Mikhail Khodorkovsky and Platon Lebedev.

As a second flawed trial comes to conclusion, this is truer now than ever before. The international community will be closely watching the outcome of this case. I urge my colleagues, President Obama, and the administration to do the same. I hope Russia will choose the right path and somehow that justice will prevail in this infamous case.

I yield the floor.

The PRESIDING OFFICER. The majority whip.

WELCOMING HIS EXCELLENCY BRONISLAW KOMOROWSKI

Mr. DURBIN. Mr. President, on April 10, 2010, as word spread of the tragic plane crash that killed President Lech Kaczynski, First Lady Maria Kaczynski, and scores of other Polish patriots, Poles gathered by the thousands outside St. John's Church in Warsaw, grieving for their terrible loss. That loss was also felt around the world. On that unspeakably sad day, I visited the Polish Consulate in Chicago to pay my respects. People were streaming to the consulate from all over Chicago and throughout the Midwest. They drove with Polish flags proudly displayed on their cars and waited in long lines to sign the condolence book, leave flowers, or simply whisper a prayer.

Days later, the U.S. Senate observed a moment of silence for all those who lost their lives in the Katyn Forest in Smolensk and for the heartbroken people of Poland. Some asked then: How will Poland survive such a devastating loss?

The people of Poland did so by relying, as they always have, on faith, family and freedom. On July 4, the Polish people chose their fourth democratically elected leader. Today, that leader, President Bronislaw Komorowski, is making his first visit as President of Poland to the United States. We are honored he is here.

Mr. Komorowski is a descendent of Polish nobility, a historian by training, and a lifelong freedom fighter. He took part in his first anti-Communist protests as a high school student in 1968. As a young man, he defied communist authorities by lighting candles and posting banners at the Katyn section of the historic Powazki Cemetery in Warsaw, the resting place of many Polish heroes. He served as Poland's defense minister in 2000 and 2001 and became Speaker of the Sejm, Poland's House of Representatives, in 2007. The day after he was elected President, President Obama invited him to visit the United States. The two Presidents are meeting in the White House today.

As a boy growing up in East St. Louis, IL, I knew without a doubt that the greatest man on Earth was the son of a Polish Immigrant to America. He was born Stanisław Franciszek Musiał, but America came to know and love him as Stan ''The Man'' Musial. He was the heart and soul of the St. Louis Cardinals of my youth and one of the best outfielders in baseball history.

In school, I learned that American history is, in fact, filled with Polish and Polish-American heroes—men and women who helped lift this country into what it is today.

Polish craftsmen were already hard at work helping to build the colony of Jamestown when the Pilgrims landed at Plymouth Rock. In 1619 when the Virginia House of Burgesses refused to extend to the Polish workers the ''rights of the Englishmen,'' including the right to vote, the Polish people began and won the first recorded strike in the New World.

More than a century and a half later, two valiant sons of Poland stepped forward and joined America in our effort to gain independence. Thaddeus Kosciuszko landed shortly after the signing of the Declaration of Independence and, upon learning of the document, decided that he must meet the author. He and Thomas Jefferson became friends. He built the United States Military Academy at West Point and helped lead American troops in their improbable and crucial early victories at the Battles of Saratoga and Ticonderoga. Years later, Thomas Jefferson called him ''as pure a son of liberty as I have ever known,'' and statues of him stand today at West Point and in Lafayette Square across from the White House.

Casimir Pulaski was drawn to the same idea of freedom and became a brigadier general in the Continental Army. He was the ''father of the US Cavalry,'' saved George Washington's Army at the Battle of Brandywine and gave his life for American independence at the Battle of Savannah. He has a statue in his honor here in Washington, DC, and is held in such high regard by my home State of Illinois that there is a statewide holiday so that all residents may pay their respects.

And when the time came for Poland to seek its freedom in 1989, the United States was at its side. It is astonishing to consider the changes that took place over these two decades. Poland today is a major force in Europe and a brave and indispensible leader in the effort to finish the work of making Europe whole, free and at peace with itself. Poland stood with its Baltic neighbors—including Lithuania, the land of my mother's birth—as they, too, have reached for democracy and freedom.

Poland's historic entry into NATO in 1999 has led to invaluable Polish contributions to peace and stability—not only in Europe, but around our world. Polish soldiers fought side-by-side with Americans in Iraq, standing with us even during the darkest days of that war. Today, more than 2,500 Polish soldiers are serving in Afghanistan, and Poland is leading a Provisional Reconstruction Team in one of the most dangerous and challenging areas in that nation. Poland has also agreed to allow a US missile defense base on its territory in order to help defend Europe from new security threats from those who may not share our values.

In 2004, Poland joined the European Union, symbolically ending the long and unjust Cold War division of Europe. As a member of the EU, Poland has also shown great leadership in its transition to a free market economy. Indeed, it is the only nation in Europe to have avoided a recession during the financial crisis, and its economy is growing faster than almost any other nation in Europe. Thirty years after the birth of Solidarity in the shipyards of Gdansk, Poland today is at the forefront of efforts to build a new cooperative relationship with Russia, while also helping other Central and Eastern European nations build up their own democratic institutions and market economies and find their rightful place in the new Europe.

The United States and Poland are connected by strong bonds of shared history and shared values. We are more than allies; we are family. More than 9 million Americans trace their roots to Poland. I am proud to represent Chicago, the most Polish city outside of Poland. Even today, there are neighborhoods in Chicago where you can scarcely walk a block without hearing someone speaking Polish. I am proud to welcome the President Komorowski, and I hope for the continued strong relationship between Poland and the United States for many years to come.

HONORING OUR ARMED FORCES

CORPORAL CHAD S. WADE

Mrs. LINCOLN. Mr. President, today I honor Corporal Chad S. Wade, 22, of Bentonville, AR, who died December 1 while conducting combat operations in Helmand province, Afghanistan.

My heart goes out to the family of CPL Wade who made the ultimate sacrifice on behalf of our Nation. Along with all Arkansans, I am grateful for his service and for the service and sacrifice of all of our military servicemembers and their families.

More than 11,000 Arkansans on active duty and more than 10,000 Arkansas Reservists have served in Iraq or Afghanistan since September 11, 2001. These men and women have shown tremendous courage and perseverance through the most difficult of times. As neighbors, as Arkansans, and as Americans, it is incumbent upon us to do everything we can to honor their service and to provide for them and their families, not only when they are in harm's way but also when they return home. It is the least we can do for those whom we owe so much.

Corporal Wade was assigned to the 2nd Battalion, 1st Marine Regiment, 1st Marine Division, I Marine Expeditionary Force, Camp Pendleton, CA.

LEGISLATIVE INTENT—H.R. 2142

Mr. AKAKA. Mr. President, H.R. 2142, as amended, will modernize and refine key aspects of the Government Performance and Results Act, or GPRA, while keeping the statutory foundation established by the act in place. I was pleased to join Mr. LIEBERMAN, Ms. COLLINS, and Mr. VOINOVICH in cosponsoring the substitute amendment Mr. CARPER offered at the September 29, 2010, business meeting held by the Committee on Homeland Security and Governmental Affairs, and I strongly support the bill. I would, however, like to take this opportunity to clarify the intent of the legislation on a matter of great importance. Concerns have been raised that this legislation will prohibit Federal agencies from being assisted by non-Federal parties when preparing GPRA reports. It is my understanding that, in reporting favorably H.R. 2142, as amended, the committee chose not to change the language in GPRA that made the preparation of agency strategic plans, annual performance plans, or annual program performance reports an inherently governmental function. May I ask the Senator from Delaware, as the primary sponsor of the substitute amendment to H.R. 2142, to clarify the intent of the provisions contained in H.R. 2142, as amended, which address the issue of inherently governmental functions?

Mr. CARPER. My friend is correct. This bill will not change the language in GPRA statutes addressing inherently governmental functions. It merely extends existing GPRA standards to apply to the new requirements established by H.R. 2142, as amended, that did not exist in 1993, such as the Federal Government and agency priority goals, along with agency performance updates. As you know, in addressing the issue of inherently governmental functions, the Government Performance and Results Act of 1993 Report of the Committee on Governmental Affairs states:

The preparation of an agency's or the Postal Service's strategic plan, annual performance plan, and annual program performance report under this Act are declared to be inherently governmental functions. In defining

these activities in this manner, the Committee was guided by the OMB policy letter of September 23, 1992, which established Executive Branch policy relating to service contracting and inherently governmental functions. This policy letter defined an ''inherently governmental function'' as a ''function that is so intimately related to the public interest as to mandate performance by Government employees.'' While this Act specifies that Government employees are solely to be responsible for the final plan or report, this does not limit agencies from being assisted by non-Federal parties, such as contractors or grantees, in the preparation of these plans and reports. This might be necessitated, for example, when there is a lack of in-house expertise within an agency. The assistance of non-Federal parties may include collection of information, the conduct of studies, analyses, or evaluations, or the providing of advice, opinions, or ideas to Federal officials, or to provide training of Federal employees. This assistance by non-Federal parties in the performance of inherently governmental functions is also consistent with the OMB policy letter. The Committee also recognizes that many Federal programs are carried out by States, local governments, and contractors-not by the Federal Government directly. Federal agencies regularly rely on these parties for performance data, and the Committee neither intends nor expects existing systems, processes, and requirements for measuring current or past performance, or which propose or forecast future performance levels to be duplicated by new parallel efforts involving only Federal employees. Finally, the Committee notes that it is the longstanding policy of the Federal Government that Federal officials should perform the decision and/or policymaking and managerial responsibilities of the government. The basic principle is that accountable Federal employees should not only be responsible for the ''products'' produced by their agencies (whether contractors or Federal employees produced the product) but also should be involved in a significant manner in the ''process'' of formulating the product. Thus, agencies are not fulfilling the intent of this legislation if the required plans and reports are largely the products of contractors. To further this need for accountability, agencies should include in their plans and reports an acknowledgment of the role and a description of a significant contribution made by a contractor or other non-Federal entity to the plan or report.

In repeating the inherently governmental functions language of GPRA in H.R. 2142, as amended, the intent of H.R. 2142, as amended, is exactly the same as the intent of the identical language in GPRA, which I previously quoted. My remarks reflect the views of the Homeland Security and Governmental Affairs Committee on the interpretation of this provision. This explanation will be included in the committee's written report on the legislation that will be filed shortly.

Mr. AKAKA. I thank the gentleman from Delaware for his clarification.

CLAIMS RESOLUTION ACT

Mr. BINGAMAN. Mr. President, I rise today to commemorate President Obama's signing of the historic Claims Resolution Act of 2010. The act contains measures that resolve long-standing claims against the United States including claims relating to three Indian water rights adjudication cases in New Mexico. In addition, the act provides significant funding to implement the settlement agreements. The signing of the Claims Resolution Act of 2010 represents a significant achievement for the people of New Mexico.

I would like to express my gratitude to the many New Mexicans who have worked on these settlement agreements over many years. I would also like to commend the Obama administration for its efforts to engage with the settlement parties to finalize the settlements in ways that will strengthen the relationship between the Federal Government and the tribes and protect the non-Indian residents in the settlement areas. Having the full support of the administration was a very important part of our success.

The Aamodt and Abeyta settlements represent agreements that end long-standing litigation and provide numerous benefits that could never have been possible through the courts. The funding we have provided will ensure that the projects can move forward quickly. It is my hope that the settlement parties will continue to make swift progress toward implementation so that the Pueblo and non-Pueblo residents of Taos and the Pojoaque Valley will soon have access to more secure drinking water and improved ligation systems. In addition, the $180 million in funding provided for the Navajo settlement will expedite the construction necessary to bring drinking water to Navajo citizens who currently haul water to their homes from watering stations many miles away. The Navajo-Gallup project will also provide water to the city of Gallup and the Jicarilla Apache Tribe. I am pleased the Bureau of Reclamation's planning for the project is well underway and that construction may commence as early as 2012, providing hundreds of jobs for New Mexicans for years to come.

The Aamodt case involves the water rights claims of the Nambe, Pojoaque, San Ildefonso, and Tesuque Pueblos in the Rio Pojoaque stream system north of Santa Fe. It is my understanding that the case, which was filed in 1966, is the longest active Federal case in the country. The Aamodt settlement represents an agreement that quantifies the present and future water rights of the four Pueblos involved in the litigation. The settlement also protects the interests and water rights of non-Indian water users, including the historic acequias irrigation systems that have existed for centuries. The Aamodt settlement will bring new water into the basin for municipal and domestic needs for Pueblo and non-Pueblo residents throughout the Pojoaque basin. I commend the Aamodt settlement parties for their commitment to the negotiation process which will provide benefits to the basin for generations to come.

The Abeyta settlement resolves Taos Pueblo's water rights claims in the Rio Pueblo de Taos stream system. The Abeyta adjudication case is also over 40 years old and the settlement parties have been working toward this result for decades. I commend them for their hard work and dedication. The Abeyta settlement will quantify the water rights of Taos Pueblo and will protect the interests of the other citizens throughout the Taos region. The Abeyta settlement provides for the construction of mutually beneficial projects designed to modernize water infrastructure and protect historic landscapes. The settlement will help to preserve the region's historic irrigation systems and provide security to domestic water users as well.

The Aamodt and Abeyta settlements represent fair and reasonable conclusions to protracted, contentious litigation. They are the product of countless hours of hard work and determination. Numerous individuals have worked on these issues for decades like Nelson Cordova, Gil Suazo, Palemon Martinez and John Painter in the Taos Valley and David Ortiz, Maxine Goad, Herbert Yates, Ernest Mirabal, Charlie Dorame, James Hena, Perry Martinez, and George Rivera from the Aamodt case. I am grateful to those individuals and the many others who made these settlements possible. I would like to provide a special acknowledgment to Michael Connor, the Commissioner of Reclamation, for his longstanding commitment to resolving Indian water rights claims in ways that promote sound federal policy and fairness to the parties involved. Finally, I would like to recognize both Tanya Trujillo, my water expert on the Committee on Energy and Natural Resources, and Trudy Vincent, my legislative director, for their wise counsel and hard work in passing this important legislation.

Thank you for the opportunity to make these remarks.

PRESERVING CRIMINAL ASSETS FOR FORFEITURE ACT

Mr. WHITEHOUSE. Mr. President, I rise to speak in support of S. 4005, the Preserving Criminal Assets for Forfeiture Act of 2010, which I recently introduced with my distinguished colleague Senator CORNYN. This bill will help keep the proceeds and instrumentalities of crime out of the hands of foreign criminals. It will also encourage foreign countries to assist the United States in recovering the overseas assets of U.S. criminals.

The U.S. Government is currently authorized to assist foreign nations seeking to enforce their forfeiture judgments, for example by seizing the proceeds of large-scale international fraud, drug trafficking, or money laundering. Recent judicial decisions, however, have interpreted existing statutes as not providing our courts with the authority to restrain known criminal assets located in the U.S. prior to the issuance of a foreign forfeiture judgment. Criminals are therefore able to move and hide the assets they hold in

the United States as soon as they find out they will be subject to foreign forfeiture proceedings, or even while the proceedings are ongoing. This leaves U.S. courts with no property to freeze once the foreign forfeiture judgment is entered.

Because of this hole in the law, foreign criminals have already been able to shield hundreds of millions of dollars worth of ill-gotten property, allowing them to continue their criminal enterprises and frustrating the efforts of law enforcement. In recent months alone, our government has been unable to restrain more than $550 million that had been identified for forfeiture by foreign governments in connection with criminal investigations and prosecutions. This money will remain a continuing resource for criminal organizations, allowing them to fund extensive additional criminal activity, some of which may well target Americans.

The U.S. Government's lack of authority to preserve criminal assets in advance of a foreign forfeiture judgment also threatens the cooperation we receive from foreign nations in our own criminal cases. The United States regularly seeks our allies' assistance in issuing prejudgment restraints to preserve the ill-gotten assets of U.S. criminals who have hidden their proceeds overseas. For example, in April of this year, Panama repatriated approximately $40 million in gold and jewelry from a drug money laundering case, which had been restrained there for years at our request. The forfeited assets will be liquidated, with the final proceeds from those sales placed into the Department of Justice's assets forfeiture fund, and used to enhance future domestic and international criminal investigations and law enforcement initiatives. As another example, in the major international fraud case involving Allen Stanford, Switzerland, the United Kingdom, and Canada have restrained a combined $400 million on behalf of the United States pursuant to our forfeiture proceedings.

Comparable future forfeitures could be in jeopardy because, before executing a request from the United States, most countries require assurances of reciprocity. In fact, a number of these reciprocity agreements are codified in treaties. If we fail to provide our government with authority to restrain assets pending foreign forfeiture judgments, we may ultimately enable criminal organizations in the United States to dissipate foreign assets that should be subject to U.S. forfeiture proceedings. That puts at risk hundreds of millions of dollars in criminal proceeds that may not be able to be returned to fraud victims or that criminals will reinvest in drug trafficking offenses or other crimes that affect our communities.

The bipartisan Preserving Criminal Assets for Forfeiture Act of 2010 will fix these problems by preventing criminals from removing illicit assets from the United States during the pendency of foreign forfeiture proceedings. The bill would amend 28 U.S.C. § 4267(d)(3) to clarify that U.S. courts have the power to issue restraining orders freezing the proceeds and instrumentalities of foreign criminals until foreign forfeiture proceedings have concluded. In doing so, the legislation brings the treatment of international criminals' assets in line with that of domestic criminals.

The bill includes due process protections analogous to those used for restraining orders in anticipation of domestic forfeiture judgments, to make sure that only criminal assets are targeted. It also requires the U.S. court to ensure that the relevant foreign tribunal observes due process protections, has subject matter jurisdiction, and is not acting as a result of fraud.

The bill is supported by the Department of Justice, and I thank the attorneys of the Department for their expert advice on this legislation. I also particularly thank Senator CORNYN for his leadership on this issue. It has been a great pleasure to work with him in introducing this legislation. I urge our colleagues on both sides of the aisle to join with us to enact this much needed bill into law.

ADDITIONAL STATEMENTS

REMEMBERING RICHARD GOLDMAN

● Mrs. BOXER. Mr. President, it is with a heavy heart that I ask my colleagues to join me today in honoring the memory of Richard Goldman, a visionary philanthropist and extraordinary civic leader. Richard was a successful businessman whose dedication to his global community improved the lives of millions. Richard passed away peacefully at his home in San Francisco on November 29, 2010. He was 90 years old.

Richard Goldman was born on April 16, 1920, in San Francisco, CA. He grew up just down the street from his future wife, Rhoda Haas. Richard attended the University of California at Berkeley before serving 4 years in the U.S. Armed Forces. In 1946, Richard returned to San Francisco and shortly thereafter reconnected with Rhoda, a descendant of Levi Strauss, who served on the board of directors of both the apparel company and the Levi Strauss Foundation. Richard and Rhoda were married within the year.

In 1949, Richard founded Goldman Insurance Services, a major San Francisco brokerage firm that was sold to Willis Insurance in 2001. In 1951, Goldman and his wife Rhoda Haas Goldman created the Goldman Fund, which has since then given more that half a billion dollars to a range of philanthropic causes in the bay area, nationally, and internationally. The Goldman Fund recently made a $10,000,000 grant to the San Francisco Symphony and a $3,600,000 grant to the Golden Gate National Parks Conservancy for the restoration of Lands End, a 1.6-mile coastal hiking trail with views of the Golden Gate Bridge and the Marin Headlands. The Goldmans focused their philanthropic efforts on the arts, cultural institutions, Jewish affairs, and of course, the environment.

As an expression of their lifelong commitment to environmental protection, Richard and Rhoda launched the Goldman Prize in 1990. Each year, up to seven individuals from each of the six inhabited continental regions of the world are selected to receive the $150,000 prize. Goldman Environmental Prize winners are announced each year in April, to coincide with Earth Day. Recipients participate in a 10-day tour of San Francisco and Washington, DC; an award ceremony in each city; and many opportunities to meet with elected and environmental leaders, news media, and other dignitaries. In addition to financial support, the prize provides invaluable opportunities for prize winners to raise awareness about the issue they are combating, and attract worldwide visibility for the work they're doing to address it. The prize has always been intended to honor grassroots environmental heroes who are involved in local efforts to protect the world's precious natural resources.

Richard and Rhoda created an environmental legacy that has reached all corners of the globe. The Goldman Prize has been awarded to a range of activists around the world from Swaziland to Romania, working on issues from shark finning to uranium mining. It has become the world's largest prize program for grassroots environmental activists, attracting intense international media attention. The Goldman Environmental Prize has a lasting impact; recipients continue their work long after the award ceremonies have ended and the public spotlight has dimmed. Many have gone on to win election or appointment to public office or to expand the reach and impact of their work in other ways. The 1991 Goldman Prize winner from Africa, Wangari Maathai, became the first African woman to win the Nobel Peace Prize. In 2004, Ms. Matthai won the Nobel for her dedication to the environment, human rights, and peace.●

TRIBUTE TO BAILEY JEAN CARLSEN

● Mr. THUNE. Mr. President, today I recognize Bailey Jean Carlsen, an intern in my Washington, DC, office, for all of the hard work she has done for me, my staff, and the State of South Dakota over the past several months.

Bailey is a graduate of Roncalli High School in Aberdeen, SD. Currently, she is attending Drake University, where she is majoring in sociology and law, and politics and society. She is a hard worker who has been dedicated to getting the most out of her internship experience.

I would like to extend my sincere thanks and appreciation to Bailey for

all of the fine work she has done and wish her continued success in the years to come.●

TRIBUTE TO EDWARD M. HILL

● Mr. THUNE. Mr. President, today I recognize Edward M. Hill, an intern in my Washington, DC, office, for all of the hard work he has done for me, my staff, and the State of South Dakota over the past several months.

Edward is a graduate of Rapid City Central High School in Rapid City, SD. Currently, he is attending Georgetown University, where he is majoring in international politics and security studies. He is a hard worker who has been dedicated to getting the most out of his internship experience.

I would like to extend my sincere thanks and appreciation to Edward for all of the fine work he has done and wish him continued success in the years to come.●

TRIBUTE TO KATHERINE WAGNER

● Mr. THUNE. Mr. President, today I recognize Katherine Wagner, an intern in my Washington, DC, office, for all of the hard work she has done for me, my staff, and the State of South Dakota over the past several months.

Katherine is a graduate of Spearfish High School in Spearfish, SD. Currently, she is attending the University of South Dakota, where she is majoring in political science and mass communications. She is a hard worker who has been dedicated to getting the most out of her internship experience.

I would like to extend my sincere thanks and appreciation to Katherine for all of the fine work she has done and wish her continued success in the years to come.●

TRIBUTE TO TRACY ROGERS ZEA

● Mr. THUNE. Mr. President, today I recognize Tracy Rogers Zea, an intern in my Washington, DC, office, for all of the hard work he has done for me, my staff, and the State of South Dakota over the past several months.

Tracy is a graduate of Seton Catholic High School in Chandler, AZ. He is a recent graduate of South Dakota State University, where he majored in political science. He is a hard worker who has been dedicated to getting the most out of his internship experience.

I would like to extend my sincere thanks and appreciation to Tracy for all of the fine work he has done and wish him continued success in the years to come.●

MESSAGES FROM THE PRESIDENT

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

EXECUTIVE MESSAGES REFERRED

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

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

MESSAGES FROM THE HOUSE

At 12:31 p.m., a message from the House of Representatives, delivered by Mrs. Cole, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 6400. An act to designate the facility of the United States Postal Service located at 111 North 6th Street in St. Louis, Missouri, as the ''Earl Wilson, Jr. Post Office''.

The message also announced that the House has passed the following bills, without amendment:

S. 3789. An act to limit access to Social Security account numbers.

S. 3987. An act to amend the Fair Credit Reporting Act with respect to the applicability of identity theft guidelines to creditors.

The message further announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 267. Concurrent resolution congratulating the Baltic nations of Estonia, Latvia, and Lithuania on the 20th anniversary of their declarations on the restoration of independence from the Soviet Union.

At 3:30 p.m., a message from the House of Representatives, delivered by Mr. Novotny, one of its reading clerks, announced that the House has passed the following bill, with an amendment, in which it requests the concurrence of the Senate:

S. 3817. An act to amend the Child Abuse Prevention and Treatment Act, the Family Violence Prevention and Services Act, the Child Abuse Prevention and Treatment and Adoption Reform Act of 1978, and the Abandoned Infants Assistance Act of 1988 to reauthorize the Acts, and for other purposes.

ENROLLED BILLS SIGNED

At 5:32 p.m., a message from the House of Representatives, delivered by Mrs. Cole, one of its reading clerks, announced that the Speaker has signed the following enrolled bills:

H.R. 2480. An act to improve the accuracy of fur product labeling, and for other purposes.

H.R. 3237. An act to enact certain laws relating to national and commercial space programs as title 51, United States Code, ''National and Commercial Space Programs''.

H.R. 6184. An act to amend the Water Resources Development Act of 2000 to extend and modify the program allowing the Secretary of the Army to accept and expend funds contributed by non-Federal public entities to expedite the evaluation of permits, and for other purposes.

H.R. 6399. An act to improve certain administrative operations of the Office of the Architect of the Capitol, and for other purposes.

The enrolled bills were subsequently signed by the President pro tempore (Mr. INOUYE).

MEASURES REFERRED

The following bill was read the first and the second times by unanimous consent, and referred as indicated:

H.R. 6400. An act to designate the facility of the United States Postal Service located at 111 North 6th Street in St. Louis, Missouri, as the ''Earl Wilson, Jr. Post Office''; to the Committee on Homeland Security and Governmental Affairs.

The following concurrent resolution was read, and referred as indicated:

H. Con. Res. 267. Concurrent resolution congratulating the Baltic nations of Estonia, Latvia, and Lithuania on the 20th anniversary of the reestablishment of their full independence from the Soviet Union; to the Committee on Foreign Relations.

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–8364. A communication from the Director of Defense Procurement and Acquisition Policy, Department of Defense, transmitting, pursuant to law, the report of a rule entitled ''Defense Federal Acquisition Regulation Supplement; Restrictions on the Use of Mandatory Arbitration Agreements'' (DFARS Case 2010–D004) received in the Office of the President of the Senate on December 7, 2010; to the Committee on Armed Services.

EC–8365. A communication from the Director of Defense Procurement and Acquisition Policy, Department of Defense, transmitting, pursuant to law, the report of a rule entitled ''Defense Federal Acquisition Regulation Supplement; Restriction on Ball and Roller Bearings'' (DFARS Case 2006–D029) received in the Office of the President of the Senate on December 7, 2010; to the Committee on Armed Services.

EC–8366. A communication from the Secretary of Defense, transmitting, pursuant to law, a report relative to the expenditure of funds to design the OHIO Replacement SSBN with the flexibility to accommodate female crew members; to the Committee on Armed Services.

EC–8367. A communication from the Chairman and President of the Export-Import Bank, transmitting, pursuant to law, a report relative to transactions involving U.S. exports to Indonesia; to the Committee on Banking, Housing, and Urban Affairs.

EC–8368. A communication from the Chief of the Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Electronic Funds Transfer of Depository Taxes'' (RIN1545–BJ13) received in the Office of the President of the Senate on December 7, 2010; to the Committee on Finance.

EC–8369. A communication from the Chief of the Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Modification to the Relief and Guidance on Corrections of Certain Failures of a Nonqualified Deferred Compensation Plan to Comply with Section 409A(a)'' (Notice 2010–80) received in the Office of the President of the Senate on December 7, 2010; to the Committee on Finance.

EC–8370. A communication from the Chief of the Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the

report of a rule entitled ''Extension of Deadline to Adopt Certain Retirement Plan Amendments'' (Notice 2010–77) received in the Office of the President of the Senate on December 7, 2010; to the Committee on Finance.

EC–8371. A communication from the Chief of the Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Cost Limitations for Expensing IRC Section 179 Property'' (Rev. Proc. 2010–47) received in the Office of the President of the Senate on December 7, 2010; to the Committee on Finance.

EC–8372. A communication from the Assistant Secretary, Bureau of Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the certification of a proposed permanent export license for the export of defense articles, to include technical data, related to the export of discontinued rifles to be returned to the manufacturer in Brazil in the amount of $1,000,000 or more; to the Committee on Foreign Relations.

EC–8373. A communication from the Assistant Secretary, Bureau of Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the certification of a proposed manufacturing license agreement for the export of defense articles, to include technical data, and defense services for the design, manufacture, marketing and sale of High-G Military Accelerometers; to the Committee on Foreign Relations.

EC–8374. A communication from the Assistant Secretary, Bureau of Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the certification of a proposed manufacturing license agreement for the export of defense articles, to include technical data, and defense services to the Netherlands for the Manufacture of Dayside CCD Cameras, Lower Arm Support Assemblies and CCA Test Stations; to the Committee on Foreign Relations.

EC–8375. A communication from the Assistant Secretary, Bureau of Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the certification of a proposed manufacturing license agreement for the export of defense articles, to include technical data, and defense services to Kuwait for the manufacture, assembly, test and sale of 25mm weapon stations for integration with Pandur 6x6 vehicles in the amount of $50,000,000 or more; to the Committee on Foreign Relations.

EC–8376. A communication from the Assistant Secretary, Bureau of Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the certification of a proposed manufacturing license agreement for the export of defense articles, to include technical data, and defense services to Israel for the manufacture of F–15 parts, spares, and associated tooling for end use by the Republic of Korea and the United States in the amount of $50,000,000 or more; to the Committee on Foreign Relations.

EC–8377. A communication from the Assistant Secretary, Bureau of Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the certification of a proposed manufacturing license agreement for the export of defense articles, to include technical data, and defense services for the manufacture of select T700 engine components for the SH–60 Helicopter for the Armed Forces of Japan in the amount of $100,000,000 or more; to the Committee on Foreign Relations.

EC–8378. A communication from the Assistant Secretary, Bureau of Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the certification of a proposed manufacturing license agreement for the export of defense articles, to include technical data, and defense services for the manufacture of Control Actuation Systems for the Guided Multiple Launch Rocket System (GMLRS) Program in the amount of $100,000,000 or more; to the Committee on Foreign Relations.

EC–8379. A communication from the Assistant Secretary, Bureau of Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the certification of a proposed technical assistance agreement for the export of defense articles, to include technical data, and defense services to support military and security training activities for the Government of Afghanistan in the amount of $50,000,000 or more; to the Committee on Foreign Relations.

EC–8380. A communication from the Assistant Secretary, Bureau of Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the certification of a proposed technical assistance agreement for the export of defense articles, to include technical data, and defense services for the Programmable Display Generator for the F–2 aircraft of the Japanese Ministry of Defense in the amount of $100,000,000 or more; to the Committee on Foreign Relations.

EC–8381. A communication from the Assistant Secretary, Bureau of Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the certification of a proposed technical assistance agreement for the export of defense articles, to include technical data, and defense services relating to the development and demonstration of lightweight small arms technologies for the United Kingdom Ministry of Defence in the amount of $1,000,000 or more; to the Committee on Foreign Relations.

EC–8382. A communication from the Assistant Secretary, Bureau of Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the certification of a proposed amendment to a technical assistance agreement for the export of defense articles, to include technical data, and defense services to support the nuclear-based Flash Radiography Sources for the United Kingdom in support of its nuclear weapons program in the amount of $100,000,000 or more; to the Committee on Foreign Relations.

EC–8383. A communication from the Assistant Secretary, Bureau of Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the certification of a proposed amendment to a technical assistance agreement for the export of defense articles, to include technical data, and defense services for the development, production and test of the APS–508 Radar System for the CP–140 Aircraft Program in the amount of $100,000,000 or more; to the Committee on Foreign Relations.

EC–8384. A communication from the Director, Employee Services, Office of Personnel Management, transmitting, pursuant to law, the report of a rule entitled ''Absence and Leave; Sick Leave'' (RIN3206–AL91) received in the Office of the President of the Senate on December 7, 2010; to the Committee on Homeland Security and Governmental Affairs.

EC–8385. A communication from the Director, Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, a report relative to unvouchered expenditures; to the Committee on Homeland Security and Governmental Affairs.

EC–8386. A communication from the Board Members, Railroad Retirement Board, transmitting, pursuant to law, a report entitled ''Railroad Retirement Board's Performance and Accountability Report for Fiscal Year 2010''; to the Committee on Homeland Security and Governmental Affairs.

EC–8387. A communication from the Director of Administration, National Labor Relations Board, transmitting, pursuant to law, a report entitled ''Performance and Accountability Report Fiscal Year 2010''; to the Committee on Homeland Security and Governmental Affairs.

EC–8388. A communication from the Director, Congressional Affairs, Federal Election Commission, transmitting, pursuant to law, the Semi-Annual Report of the Inspector General for the period from April 1, 2010 through September 30, 2010; to the Committee on Homeland Security and Governmental Affairs.

EC–8389. A communication from the Administrator of the General Services Administration, transmitting, pursuant to law, the Semi-Annual Report of the Inspector General for the period from April 1, 2010 through September 30, 2010 and the 43rd report on audit final action by management; to the Committee on Homeland Security and Governmental Affairs.

EC–8390. A communication from the Assistant Attorney General, Office of Legislative Affairs, Department of Justice, transmitting, pursuant to law, the Semi-Annual Report of the Inspector General for the period from April 1, 2010 through September 30, 2010 and the Attorney General's Semi-Annual Management Report; to the Committee on Homeland Security and Governmental Affairs.

EC–8391. A communication from the Chairman of the Consumer Product Safety Commission, transmitting, pursuant to law, the Semi-Annual Report of the Inspector General for the period from April 1, 2010 through September 30, 2010; to the Committee on Homeland Security and Governmental Affairs.

EC–8392. A communication from the Chair of the U.S. Election Assistance Commission, transmitting, pursuant to law, the Semi-Annual Report of the Inspector General for the period from April 1, 2010 through September 30, 2010; to the Committee on Homeland Security and Governmental Affairs.

EC–8393. A communication from the Chairman, Board of Governors, U.S. Postal Service, transmitting, pursuant to law, the Semiannual Report on the Audit, Investigative, and Security Activities of the U.S. Postal Service for the period of April 1, 2010 through September 30, 2010; to the Committee on Homeland Security and Governmental Affairs.

EC–8394. A communication from the Secretary of the Department of Education, transmitting, pursuant to law, the Semiannual Report from the Office of the Inspector General for the period from April 1, 2010 through September 30, 2010; to the Committee on Homeland Security and Governmental Affairs.

EC–8395. A communication from the Secretary of Veterans Affairs, transmitting, pursuant to law, a report relative to expenditures from the Pershing Hall Revolving Fund; to the Committee on Veterans' Affairs.

EC–8396. A communication from the Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Implementation of Regional Fishery Management Organizations' Measures Pertaining to Vessels That Engaged in Illegal, Unreported, or Unregulated Fishing Actives'' (RIN0648–AW09) received in the Office of the President of the Senate on December 7, 2010; to the Committee on Commerce, Science, and Transportation.

EC–8397. A communication from the Deputy Assistant Administrator for Regulatory

Programs, Office of Sustainable Fisheries, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries in the Western Pacific; Community Development Program Process'' (RIN0648–AX76) received in the Office of the President of the Senate on December 7, 2010; to the Committee on Commerce, Science, and Transportation.

EC–8398. A communication from the Deputy Assistant Administrator for Operations, Office of Sustainable Fisheries, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries Off West Coast States; Pacific Coast Groundfish Fishery Management Plan; Amendments 20 and 21; Trawl Rationalization Program; Correction'' (RIN0648–AY68) received in the Office of the President of the Senate on December 7, 2010; to the Committee on Commerce, Science, and Transportation.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. DORGAN, from the Committee on Indian Affairs, with an amendment in the nature of a substitute:

S. 3648. A bill to establish a commission to conduct a study and provide recommendations on a comprehensive resolution of impacts caused to certain Indian tribes by the Pick-Sloan Program (Rept. No. 111–357).

By Mrs. BOXER, from the Committee on Environment and Public Works, without amendment:

S. 4016. An original bill to amend the Federal Water Pollution Control Act to establish within the Environmental Protection Agency a Columbia Basin Restoration Program (Rept. No. 111–358).

By Mr. LIEBERMAN, from the Committee on Homeland Security and Governmental Affairs, with an amendment in the nature of a substitute:

S. 2902. A bill to improve the Federal Acquisition Institute.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of nominations were submitted:

By Mr. ROCKEFELLER for the Committee on Commerce, Science, and Transportation.

*Scott C. Doney, of Massachusetts, to be Chief Scientist of the National Oceanic and Atmospheric Administration.

*Mario Cordero, of California, to be a Federal Maritime Commissioner for the term expiring June 30, 2014.

*Rebecca F. Dye, of North Carolina, to be a Federal Maritime Commissioner for the term expiring June 30, 2015.

*Coast Guard nominations beginning with Captain Bruce D. Baffer and ending with Captain Fred M. Midgette, which nominations were received by the Senate and appeared in the Congressional Record on September 20, 2010.

Mr. ROCKEFELLER. Mr. President, for the Committee on Commerce, Science, and Transportation I report favorably the following nomination lists which were printed in the RECORD on the dates indicated, and ask unanimous consent, to save the expense of reprinting on the Executive Calendar that these nominations lie at the Secretary's desk for the information of Senators.

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

*Coast Guard nominations beginning with Gregory J. Hall and ending with Joseph T. Benin, which nominations were received by the Senate and appeared in the Congressional Record on September 23, 2010.

*Coast Guard nomination of Andrew C. Kirkpatrick, to be Lieutenant.

*Coast Guard nominations beginning with Julia A. Hein and ending with Susan L. Subocz, which nominations were received by the Senate and appeared in the Congressional Record on September 29, 2010.

*Coast Guard nominations beginning with Thomas Allan and ending with Aylwyn S. Young, which nominations were received by the Senate and appeared in the Congressional Record on September 29, 2010.

*Coast Guard nominations beginning with Joseph B. Abeyta and ending with David K. Young, which nominations were received by the Senate and appeared in the Congressional Record on November 18, 2010.

*Coast Guard nominations beginning with Stephen Adler and ending with Scott A. Woolsey, which nominations were received by the Senate and appeared in the Congressional Record on November 18, 2010.

*National Oceanic and Atmospheric Administration nominations beginning with Denise J. Gruccio and ending with Lindsay R. Kurelja, which nominations were received by the Senate and appeared in the Congressional Record on November 17, 2010.

By Mr. LEAHY for the Committee on the Judiciary.

Max Oliver Cogburn, Jr., of North Carolina, to be United States District Judge for the Western District of North Carolina.

Marco A. Hernandez, of Oregon, to be United States District Judge for the District of Oregon.

Steve C. Jones, of Georgia, to be United States District Judge for the Northern District of Georgia.

Michael H. Simon, of Oregon, to be United States District Judge for the District of Oregon.

Patti B. Saris, of Massachusetts, to be a Member of the United States Sentencing Commission for a term expiring October 31, 2015.

Dabney Langhorne Friedrich, of Maryland, to be a Member of the United States Sentencing Commission for a term expiring October 31, 2015.

*Nomination was reported with recommendation that it be confirmed subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

(Nominations without an asterisk were reported with the recommendation that they be confirmed.)

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. VITTER (for himself and Mr. BARRASSO):

S. 4015. A bill to provide for the establishment, on-going validation, and utilization of an official set of data on the historical temperature record, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mrs. BOXER:

S. 4016. An original bill to amend the Federal Water Pollution Control Act to establish within the Environmental Protection Agency a Columbia Basin Restoration Program; from the Committee on Environment and Public Works; placed on the calendar.

By Mr. LEMIEUX:

S. 4017. A bill to amend the CDBG service cap; to the Committee on Banking, Housing, and Urban Affairs.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

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

By Mr. BROWN of Ohio:

S. Res. 697. A resolution recognizing the 15th anniversary of the Dayton Peace Accords; considered and agreed to.

ADDITIONAL COSPONSORS

S. 2900

At the request of Mrs. GILLIBRAND, the name of the Senator from New Mexico (Mr. BINGAMAN) was added as a cosponsor of S. 2900, a bill to establish a research, development, and technology demonstration program to improve the efficiency of gas turbines used in combined cycle and simple cycle power generation systems.

S. 3234

At the request of Mrs. MURRAY, the name of the Senator from Delaware (Mr. COONS) was added as a cosponsor of S. 3234, a bill to improve employment, training, and placement services furnished to veterans, especially those serving in Operation Iraqi Freedom and Operation Enduring Freedom, and for other purposes.

S. 3398

At the request of Mr. BAUCUS, the name of the Senator from Delaware (Mr. COONS) was added as a cosponsor of S. 3398, a bill to amend the Internal Revenue Code of 1986 to extend the work opportunity credit to certain recently discharged veterans.

S. 3572

At the request of Mrs. LINCOLN, the names of the Senator from New Mexico (Mr. UDALL), the Senator from Iowa (Mr. HARKIN) and the Senator from Hawaii (Mr. AKAKA) were added as cosponsors of S. 3572, a bill to require the Secretary of the Treasury to mint coins in commemoration of the 225th anniversary of the establishment of the Nation's first law enforcement agency, the United States Marshals Service.

S. 3737

At the request of Mr. HARKIN, the name of the Senator from Michigan (Ms. STABENOW) was added as a cosponsor of S. 3737, a bill to amend the Public Health Service Act and title XVIII of the Social Security Act to make the provision of technical services for medical imaging examinations and radiation therapy treatments safer, more accurate, and less costly.

S. 3860

At the request of Mrs. MCCASKILL, the name of the Senator from Delaware (Mr. COONS) was added as a cosponsor of S. 3860, a bill to require reports on the management of Arlington National Cemetery.

S. 3959

At the request of Mrs. MCCASKILL, the name of the Senator from Delaware (Mr. CARPER) was added as a cosponsor of S. 3959, a bill to eliminate the preferences and special rules for Alaska Native Corporations under the program under section 8(a) of the Small Business Act.

S. 3960

At the request of Mr. LAUTENBERG, the name of the Senator from Oregon (Mr. MERKLEY) was added as a cosponsor of S. 3960, a bill to prevent harassment at institutions of higher education, and for other purposes.

S. 3979

At the request of Mr. BROWN of Ohio, the name of the Senator from Michigan (Ms. STABENOW) was added as a cosponsor of S. 3979, a bill to amend the Emergency Economic Stabilization Act of 2008 to allow amounts under the Troubled Assets Relief Program to be used to provide legal assistance to homeowners to avoid foreclosure.

AMENDMENT NO. 4626

At the request of Mr. UDALL of Colorado, the name of the Senator from Tennessee (Mr. ALEXANDER) was added as a cosponsor of amendment No. 4626 intended to be proposed to S. 3454, an original bill to authorize appropriations for fiscal year 2011 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 697—RECOGNIZING THE 15TH ANNIVERSARY OF THE DAYTON PEACE ACCORDS

Mr. BROWN of Ohio submitted the following resolution; which was considered and agreed to:

S. RES. 697

Whereas on December 14, 1995, the Dayton Peace Accords established peace and ended the war on the Balkan Peninsula in which more than 2,000,000 people were displaced and thousands were killed;

Whereas peace treaty negotiations began November 1, 1995, at Wright-Patterson Air Force Base in Dayton, Ohio, and concluded there on November 21, 1995, when Bosnia and Herzegovina, Croatia, and Serbia agreed to settle all war conflicts;

Whereas after 21 days of negotiations, the peace treaty negotiations successfully concluded with a peace treaty that was accepted by all parties;

Whereas the Dayton, Ohio, community provided outstanding security during the peace treaty negotiations;

Whereas the conclusion of the Dayton Peace Accords was a successful effort of the North Atlantic Treaty Organization led by the United States, with outstanding cooperation from the Russian Federation, Germany, France, and the United Kingdom;

Whereas the Dayton Peace Accords were the result of, and showed the success of, strong joint North Atlantic Treaty Organization efforts to promote and establish peace, security, and prosperity;

Whereas the signatories to the Dayton Peace Accords made a commitment to fully respect human rights and the rights of refugees and displaced persons;

Whereas the Dayton Peace Accords transformed Bosnia and Herzegovina from a country mired in a war based on ethnic and religious differences into a country engaged in an intense, but peaceful, struggle over the manner by which to form an independent and stable country;

Whereas the United States Agency for International Development and other bilateral and multilateral agencies and organizations made large investments to build a strong and independent media in Croatia, Serbia, and Bosnia and Herzegovina;

Whereas the Dayton International Peace Museum honors the Dayton Peace Accords and offers nonpartisan educational programs and exhibitions featuring the themes of nonviolent conflict resolution, social justice, international relations, and peace;

Whereas the people of the State of Ohio and the Dayton region facilitated and strongly supported the implementation of the Dayton Peace Accords, as well as promoted the peaceful democratization of the deeply divided country of Bosnia and Herzegovina;

Whereas stability and prosperity were fostered by the State of Ohio through the establishment of an exemplary relationship between the Ohio National Guard and the Armed Forces of Serbia;

Whereas the Dayton Literary Peace Prize, established in 2006, remains the only literary peace price in the United States and follows the legacy of the 1995 Dayton Peace Accords by acknowledging writers who advance peace through literature;

Whereas the city of Dayton and the city of Sarajevo have built a solid relationship as Sister Cities, and many other organizations in the region, such as the University of Dayton and the Friendship Force, have built strong relationships with the people of Bosnia and Herzegovina through programs and exchanges; and

Whereas while progress remains to be made in refining the governance structures of Bosnia and Herzegovina, the Dayton Peace Accords successfully established peace, restored human dignity, and laid the foundation for future progress in Bosnia and Herzegovina: Now, therefore, be it

Resolved, That the Senate—

(1) recognizes the 15th anniversary of the Dayton Peace Accords;

(2) acknowledges the challenges Bosnia and Herzegovina still face and commends the socioeconomic and political progress that is being made in Bosnia and Herzegovina;

(3) encourages the Government of Bosnia and Herzegovina to adhere to the membership requirements of the North Atlantic Treaty Organization so that Bosnia and Herzegovina may join the alliance without delay;

(4) encourages the further integration and cooperation of European countries with the goal of establishing peace and economic prosperity for all of the people of Europe;

(5) renews the commitment of the United States to support the people of Bosnia and Herzegovina;

(6) urges the continuation of constitutional reforms, market-based economic growth, and improved dialogue between the people of Bosnia and Herzegovina and the elected Government of Bosnia and Herzegovina; and

(7) encourages the United States Air Force to take appropriate measures to provide historical interpretation of the site of the Dayton Peace Accords to educate the public on the historical significance of the Dayton Peace Accords and the importance of negotiation in world peace.

AMENDMENTS SUBMITTED AND PROPOSED

SA 4740. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill S. 3454, to authorize appropriations for fiscal year 2011 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table.

SA 4741. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill S. 3454, supra; which was ordered to lie on the table.

SA 4742. Mr. BENNET (for Mr. REID (for himself, Mr. MCCONNELL, Mr. BAUCUS, and Mr. GRASSLEY)) proposed an amendment to the bill H.R. 4994, to extend certain expiring provisions of the Medicare and Medicaid programs, and for other purposes.

SA 4743. Mr. BENNET (for Mr. REID) proposed an amendment to the bill H.R. 4994, supra.

SA 4744. Mr. REID (for Mr. BINGAMAN (for himself, Mr. CRAPO, and Mr. KERRY)) proposed an amendment to the bill H.R. 4337, to amend the Internal Revenue Code of 1986 to modify certain rules applicable to regulated investment companies, and for other purposes.

SA 4745. Mr. REID (for Mr. CARPER) proposed an amendment to the bill S. 3167, to amend title 13 of the United States Code to provide for a 5-year term of office for the Director of the Census and to provide for authority and duties of the Director and Deputy Director of the Census, and for other purposes.

TEXT OF AMENDMENTS

SA 4740. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill S. 3454, to authorize appropriations for fiscal year 2011 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate end of subtitle B of title X, add the following:

SEC. 1012. REPLACEMENT COMBAT LOGISTICS FORCE UNDERWAY REPLENISHMENT SHIP CAPABILITIES FOR THE NAVY ON A COMMERCIAL FEE-FOR-SERVICE BASIS.

(a) IN GENERAL.—

(1) PROGRAM REQUIRED.—The Secretary of the Navy shall carry out a program, in response to Naval Surface Warfare Center Carderock Division Combat Logistics Force Energy Saving Program, BAA N000167–09–BAA–01, to obtain replacement combat logistics force underway replenishment ship capabilities for the Navy on a commercial fee-for-service basis.

(2) DETERMINATION OF REPLACEMENT SHIPS REQUIRED.—As part of the program required by this section, the Secretary—

(A) shall determine an initial number of fleet oiler ships to be constructed, leased, or both under the program to meet anticipated demands of the Navy for combat logistics force underway replenishment ships; and

(B) may from time to time determine an additional number of fleet oiler ships to be constructed, leased, or both for such purpose.

(3) AVAILABILITY OF FUNDS.—Of the amount authorized to be appropriated for research, development, test, and evaluation by section 201 and available for the Navy as specified in the funding table in section 4201, $20,000,000 shall be available for contractor activities for phase 1 (detailed combat logistics force fee-for-service performance requirements specification and detailed feasibility study reflecting such performance requirements) and phase 2 (completion of adequate development work to support contractor delivery of a fixed-price multi-year fee-for service proposal, consistent with this section and with sufficient detail and cost definition support to meet government contracting requirements) of the program required by this section. Such funds shall be available for that purpose without fiscal year limitation.

(4) BUDGETING.—The budget of the President for each fiscal year after fiscal year 2011 (as submitted to Congress pursuant to section 1105(a) of title 31, United States Code) shall specify the funds to be required in such fiscal year for the program required by this section, including amounts to be required for the following:

(A) The capital costs to be incurred in such fiscal year in connection with national defense features or modifications of fleet oiler ships constructed or leased under phase 3 of the program.

(B) The costs of executing multi-year contracts authorized by subsection (b) during such fiscal year.

(b) MULTIYEAR CONTRACTS TO OBTAIN REPLENISHMENT SUPPORT USING SHIPS CONSTRUCTED UNDER PROGRAM.—

(1) IN GENERAL.—In carrying out the program required by this section, the Secretary of the Navy may not enter into one or more multiyear contracts for the purpose of obtaining combat logistics force underway replenishment support for the Navy using ships constructed or leased under the program on a commercial fee-for-service basis unless an appropriation is provided in advance specifically for all obligations to be made under the contract, including any obligations for payments to be made in years after the year in which the contract is entered into, any obligations for payments for early cancellation of the contract, and any obligations for payments for the exercise of contract options.

(2) ELEMENTS.—Each contract under this subsection shall provide for payment by the United States of the following:

(A) The operational cost of combat logistics force underway replenishment support provided the Navy by the ship or ships covered by the contract.

(B) The costs of any national defense features or modifications on the ship or ships covered by the contract, which costs shall be paid in full through equal monthly installments under the contract over a number of months (not to exceed 60 months) beginning on or after the date on which the Navy certifies that the ship or ships covered by the contract are qualified and meet Navy standards to provide combat logistics force underway replenishment support for the Navy.

(3) COMPLIANCE WITH LAW APPLICABLE TO MULTIYEAR CONTRACTS.—Any contract entered into under this subsection shall be entered into in accordance with the provisions of section 2306c of title 10, United States Code, except that—

(A) notwithstanding subsection (b) of such section, the combat logistics force underway replenishment support for the Navy to be obtained under the contract shall be treated as services to which the authority in subsection (a) of such section applies;

(B) the term of the contract may not be more than eight years; and

(C) notwithstanding subsections (d) and (e) of such section—

(i) the contract may not be entered into unless amounts necessary to cover all costs of cancellation of the contract are appropriated before the contract is entered into; and

(ii) funds appropriated in advance for performance of the contract shall be the only funds available for costs of cancellation of the contract.

(4) COMPLIANCE WITH LAW APPLICABLE TO SERVICE CONTRACTS.—A contract entered into under this subsection shall be entered into in accordance with the provisions of section 2401 of title 10, United States Code, except that—

(A) the Secretary shall not be required to certify to the congressional defense committees that the contract is the most cost-effective means of obtaining combat logistics force underway replenishment support for the Navy; and

(B) the Secretary shall not be required to certify to the congressional defense committees that there is no alternative for meeting urgent operational requirements other than making the contract.

(5) LIMITATION ON AMOUNT.—The amount of any contract (including any options) under this subsection may not exceed $999,999,999.

(c) PREFERENCE FOR FINANCING UNDER FEDERAL SHIP FINANCING PROGRAM.—A contractor seeking financing for a ship whose principal service will be the provision of combat logistics force underway replenishment support for the Navy under a contract under subsection (b) shall be given approval preference by the Secretary of Transportation for the Federal Ship Financing Program under chapter 537 of title 46, United States Code.

(d) GOVERNMENT WAR RISK INSURANCE.—A contractor with the Navy under subsection (b) shall be eligible for Government-provided war risk insurance for the ship or ships covered by the contract in accordance with chapter 539 of title 46, United States Code, with the following exceptions:

(1) With regard to section 53902(a) of such title, the Secretary of the Navy may act for the Secretary of Transportation in approving the issuance of such insurance.

(2) While an insured ship is completely dedicated to the provision of combat logistics force underway replenishment support for the Navy, the insurance may be issued as agency insurance in accordance with section 53905 of such title.

SA 4741. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill S. 3454, to authorize appropriations for fiscal year 2011 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle C of title I, add the following:

SEC. 126. ADDITIONAL COMBAT SHIP MATTERS.

(a) MODIFICATIONS TO LITTORAL COMBAT SHIP PROGRAM AUTHORITY.—Section 121 of the National Defense Authorization Act for Fiscal Year 2010 (Public Law 111–84; 123 Stat. 2211) is amended—

(1) in subsection (a)—

(A) in paragraph (1)—

(i) by striking ''ten Littoral Combat Ships and 15 Littoral Combat Ship ship control and weapon systems'' and inserting ''20 Littoral Combat Ships (LCS), including ship control and weapon systems,''; and

(ii) by striking ''a contract'' and inserting ''one or more contracts''; and

(B) in paragraph (2)—

(i) by striking ''A contract'' and inserting ''Any contract''; and

(ii) by striking ''liability to'' and inserting ''liability of'';

(2) in subsection (b)—

(A) in paragraph (1), by striking ''a procurement'' and inserting ''any contract''; and

(B) in paragraph (2)—

(i) by striking ''a Littoral'' and inserting ''any Littoral''; and

(ii) in subparagraph (A), by striking ''a second shipyard, as soon as practicable'' and inserting ''another shipyard to build to a design specification for that Littoral Combat Ship''; and

(3) in subsection (c)(1), by striking ''awarded to a contractor selected as part of a procurement'' and inserting ''under any contract''.

(b) REPLACEMENT COMBAT LOGISTICS FORCE UNDERWAY REPLENISHMENT SHIP CAPABILITIES FOR THE NAVY ON A COMMERCIAL FEE-FOR-SERVICE BASIS.—

(1) PROGRAM REQUIRED.—The Secretary of the Navy shall carry out a program, in response to Naval Surface Warfare Center Carderock Division Combat Logistics Force Energy Saving Program, BAA N000167–09–BAA–01, to obtain replacement combat logistics force underway replenishment ship capabilities for the Navy on a commercial fee-for-service basis.

(2) DETERMINATION OF REPLACEMENT SHIPS REQUIRED.—As part of the program required by this subsection, the Secretary—

(A) shall determine an initial number of fleet oiler ships to be constructed, leased, or both under the program to meet anticipated demands of the Navy for combat logistics force underway replenishment ships; and

(B) may from time to time determine an additional number of fleet oiler ships to be constructed, leased, or both for such purpose.

(3) AVAILABILITY OF FUNDS.—Of the amount authorized to be appropriated for research, development, test, and evaluation by section 201 and available for the Navy as specified in the funding table in section 4201, $20,000,000 shall be available for contractor activities for phase 1 (detailed combat logistics force fee-for-service performance requirements specification and detailed feasibility study reflecting such performance requirements) and phase 2 (completion of adequate development work to support contractor delivery of a fixed-price multi-year fee-for service proposal, consistent with this section and with sufficient detail and cost definition support to meet government contracting requirements) of the program required by this section. Such funds shall be available for that purpose without fiscal year limitation.

(4) BUDGETING.—The budget of the President for each fiscal year after fiscal year 2011 (as submitted to Congress pursuant to section 1105(a) of title 31, United States Code) shall specify the funds to be required in such fiscal year for the program required by this section, including amounts to be required for the following:

(A) The capital costs to be incurred in such fiscal year in connection with national defense features or modifications of fleet oiler ships constructed or leased under phase 3 of the program.

(B) The costs of executing multi-year contracts authorized by subsection (c) during such fiscal year.

(c) MULTIYEAR CONTRACTS TO OBTAIN REPLENISHMENT SUPPORT USING SHIPS CONSTRUCTED UNDER PROGRAM.—

(1) IN GENERAL.—In carrying out the program required by this section, the Secretary of the Navy may not enter into one or more

multiyear contracts for the purpose of obtaining combat logistics force underway replenishment support for the Navy using ships constructed or leased under the program on a commercial fee-for-service basis unless an appropriation is provided in advance specifically for all obligations to be made under the contract, including any obligations for payments to be made in years after the year in which the contract is entered into, any obligations for payments for early cancellation of the contract, and any obligations for payments for the exercise of contract options.

(2) ELEMENTS.—Each contract under this subsection shall provide for payment by the United States of the following:

(A) The operational cost of combat logistics force underway replenishment support provided the Navy by the ship or ships covered by the contract.

(B) The costs of any national defense features or modifications on the ship or ships covered by the contract, which costs shall be paid in full through equal monthly installments under the contract over a number of months (not to exceed 60 months) beginning on or after the date on which the Navy certifies that the ship or ships covered by the contract are qualified and meet Navy standards to provide combat logistics force underway replenishment support for the Navy.

(3) COMPLIANCE WITH LAW APPLICABLE TO MULTIYEAR CONTRACTS.—Any contract entered into under this subsection shall be entered into in accordance with the provisions of section 2306c of title 10, United States Code, except that—

(A) notwithstanding subsection (b) of such section, the combat logistics force underway replenishment support for the Navy to be obtained under the contract shall be treated as services to which the authority in subsection (a) of such section applies;

(B) the term of the contract may not be more than eight years; and

(C) notwithstanding subsections (d) and (e) of such section—

(i) the contract may not be entered into unless amounts necessary to cover all costs of cancellation of the contract are appropriated before the contract is entered into; and

(ii) funds appropriated in advance for performance of the contract shall be the only funds available for costs of cancellation of the contract.

(4) COMPLIANCE WITH LAW APPLICABLE TO SERVICE CONTRACTS.—A contract entered into under this subsection shall be entered into in accordance with the provisions of section 2401 of title 10, United States Code, except that—

(A) the Secretary shall not be required to certify to the congressional defense committees that the contract is the most cost-effective means of obtaining combat logistics force underway replenishment support for the Navy; and

(B) the Secretary shall not be required to certify to the congressional defense committees that there is no alternative for meeting urgent operational requirements other than making the contract.

(5) LIMITATION ON AMOUNT.—The amount of any contract (including any options) under this subsection may not exceed $999,999,999.

(d) PREFERENCE FOR FINANCING UNDER FEDERAL SHIP FINANCING PROGRAM.—A contractor seeking financing for a ship whose principal service will be the provision of combat logistics force underway replenishment support for the Navy under a contract under subsection (c) shall be given approval preference by the Secretary of Transportation for the Federal Ship Financing Program under chapter 537 of title 46, United States Code.

(e) GOVERNMENT WAR RISK INSURANCE.—A contractor with the Navy under subsection (c) shall be eligible for Government-provided war risk insurance for the ship or ships covered by the contract in accordance with chapter 539 of title 46, United States Code, with the following exceptions:

(1) With regard to section 53902(a) of such title, the Secretary of the Navy may act for the Secretary of Transportation in approving the issuance of such insurance.

(2) While an insured ship is completely dedicated to the provision of combat logistics force underway replenishment support for the Navy, the insurance may be issued as agency insurance in accordance with section 53905 of such title.

SA 4742. Mr. BENNET (for Mr. REID (for himself, Mr. MCCONNELL, Mr. BAUCUS, and Mr. GRASSLEY)) proposed an amendment to the bill H.R. 4994, to extend certain expiring provisions of the Medicare and Medicaid programs, and for other purposes; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Medicare and Medicaid Extenders Act of 2010''.

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

TITLE I—EXTENSIONS

SEC. 101. PHYSICIAN PAYMENT UPDATE.

Section 1848(d) of the Social Security Act (42 U.S.C. 1395w–4(d)) is amended by adding at the end the following new paragraph:

''(12) UPDATE FOR 2011.—

''(A) IN GENERAL.—Subject to paragraphs (7)(B), (8)(B), (9)(B), (10)(B), and (11)(B), in lieu of the update to the single conversion factor established in paragraph (1)(C) that would otherwise apply for 2011, the update to the single conversion factor shall be 0 percent.

''(B) NO EFFECT ON COMPUTATION OF CONVERSION FACTOR FOR 2012 AND SUBSEQUENT YEARS.—The conversion factor under this subsection shall be computed under paragraph (1)(A) for 2012 and subsequent years as if subparagraph (A) had never applied.''.

SEC. 102. EXTENSION OF MMA SECTION 508 RECLASSIFICATIONS.

(a) EXTENSION.—

(1) IN GENERAL.—Section 106(a) of division B of the Tax Relief and Health Care Act of 2006 (42 U.S.C. 1395 note), as amended by section 117 of the Medicare, Medicaid, and SCHIP Extension Act of 2007 (Public Law 110–173), section 124 of the Medicare Improvements for Patients and Providers Act of 2008 (Public Law 110–275), and sections 3137(a) and 10317 of the Patient Protection and Affordable Care Act (Public Law 111–148), is amended by striking ''September 30, 2010'' and inserting ''September 30, 2011''.

(2) SPECIAL RULE FOR FISCAL YEAR 2011.—

(A) IN GENERAL.—Subject to subparagraph (B), for purposes of implementation of the amendment made by paragraph (1), including (notwithstanding paragraph (3) of section 117(a) of the Medicare, Medicaid, and SCHIP Extension Act of 2007 (Public Law 110–173), as amended by section 124(b) of the Medicare Improvements for Patients and Providers Act of 2008 (Public Law 110–275)) for purposes of the implementation of paragraph (2) of such section 117(a), during fiscal year 2011, the Secretary of Health and Human Services shall use the hospital wage index that was promulgated by the Secretary of Health and Human Services in the Federal Register on August 16, 2010 (75 Fed. Reg. 50042), and any subsequent corrections.

(B) EXCEPTION.—Beginning on April 1, 2011, in determining the wage index applicable to hospitals that qualify for wage index reclassification, the Secretary shall include the average hourly wage data of hospitals whose reclassification was extended pursuant to the amendment made by paragraph (1) only if including such data results in a higher applicable reclassified wage index. Any revision to hospital wage indexes made as a result of this subparagraph shall not be effected in a budget neutral manner.

(3) ADJUSTMENT FOR CERTAIN HOSPITALS IN FISCAL YEAR 2011.—

(A) IN GENERAL.—In the case of a subsection (d) hospital (as defined in subsection (d)(1)(B) of section 1886 of the Social Security Act (42 U.S.C. 1395ww)) with respect to which—

(i) a reclassification of its wage index for purposes of such section was extended pursuant to the amendment made by paragraph (1); and

(ii) the wage index applicable for such hospital for the period beginning on October 1, 2010, and ending on March 31, 2011, was lower than for the period beginning on April 1, 2011, and ending on September 30, 2011, by reason of the application of paragraph (2)(B);

the Secretary shall pay such hospital an additional payment that reflects the difference between the wage index for such periods.

(B) TIMEFRAME FOR PAYMENTS.—The Secretary shall make payments required under

subparagraph (A) by not later than December 31, 2011.

(b) CONFORMING AMENDMENT.—Section 117(a)(3) of the Medicare, Medicaid, and SCHIP Extension Act of 2007 (Public Law 110–173) is amended by inserting ''in fiscal years 2008 and 2009'' after ''For purposes of implementation of this subsection''.

SEC. 103. EXTENSION OF MEDICARE WORK GEOGRAPHIC ADJUSTMENT FLOOR.

Section 1848(e)(1)(E) of the Social Security Act (42 U.S.C. 1395w–4(e)(1)(E)) is amended by striking ''before January 1, 2011'' and inserting ''before January 1, 2012''.

SEC. 104. EXTENSION OF EXCEPTIONS PROCESS FOR MEDICARE THERAPY CAPS.

Section 1833(g)(5) of the Social Security Act (42 U.S.C. 1395l(g)(5)) is amended by striking ''and ending on'' and all that follows through ''2010'' and inserting ''and ending on December 31, 2011''.

SEC. 105. EXTENSION OF PAYMENT FOR TECHNICAL COMPONENT OF CERTAIN PHYSICIAN PATHOLOGY SERVICES.

Section 542(c) of the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000 (as enacted into law by section 1(a)(6) of Public Law 106–554), as amended by section 732 of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (42 U.S.C. 1395w–4 note), section 104 of division B of the Tax Relief and Health Care Act of 2006 (42 U.S.C. 1395w–4 note), section 104 of the Medicare, Medicaid, and SCHIP Extension Act of 2007 (Public Law 110–173), section 136 of the Medicare Improvements for Patients and Providers Act of 2008 (Public Law 110–275), and section 3104 of the Patient Protection and Affordable Care Act (Public Law 111–148) is amended by striking ''and 2010'' and inserting ''2010, and 2011''.

SEC. 106. EXTENSION OF AMBULANCE ADD-ONS.

(a) GROUND AMBULANCE.—Section 1834(l)(13)(A) of the Social Security Act (42 U.S.C. 1395m(l)(13)(A)) is amended—

(1) in the matter preceding clause (i), by striking ''2011'' and inserting ''2012,''; and

(2) in each of clauses (i) and (ii), by striking ''January 1, 2011'' and inserting ''January 1, 2012'' each place it appears.

(b) AIR AMBULANCE.—Section 146(b)(1) of the Medicare Improvements for Patients and Providers Act of 2008 (Public Law 110–275), as amended by sections 3105(b) and 10311(b) of Public Law 111–148, is amended by striking ''December 31, 2010'' and inserting ''December 31, 2011''.

(c) SUPER RURAL AMBULANCE.—Section 1834(l)(12)(A) of the Social Security Act (42 U.S.C. 1395m(l)(12)(A)) is amended by striking ''2011'' and inserting ''2012''.

SEC. 107. EXTENSION OF PHYSICIAN FEE SCHEDULE MENTAL HEALTH ADD-ON PAYMENT.

Section 138(a)(1) of the Medicare Improvements for Patients and Providers Act of 2008 (Public Law 110–275), as amended by section 3107 of the Patient Protection and Affordable Care Act (Public Law 111–148), is amended by striking ''December 31, 2010'' and inserting ''December 31, 2011''.

SEC. 108. EXTENSION OF OUTPATIENT HOLD HARMLESS PROVISION.

Section 1833(t)(7)(D)(i) of the Social Security Act (42 U.S.C. 1395l(t)(7)(D)(i)), as amended by section 3121(a) of the Patient Protection and Affordable Care Act (Public Law 111–148), is amended—

(1) in subclause (II)—

(A) in the first sentence, by striking ''2011''and inserting ''2012''; and

(B) in the second sentence, by striking ''or 2010'' and inserting ''2010, or 2011''; and

(2) in subclause (III), by striking ''January 1, 2011'' and inserting ''January 1, 2012''.

SEC. 109. EXTENSION OF MEDICARE REASONABLE COSTS PAYMENTS FOR CERTAIN CLINICAL DIAGNOSTIC LABORATORY TESTS FURNISHED TO HOSPITAL PATIENTS IN CERTAIN RURAL AREAS.

Section 416(b) of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (42 U.S.C. 1395l–4), as amended by section 105 of division B of the Tax Relief and Health Care Act of 2006 (42 U.S.C. 1395l note), section 107 of the Medicare, Medicaid, and SCHIP Extension Act of 2007 (42 U.S.C. 1395l note), and section 3122 of the Patient Protection and Affordable Care Act (Public Law 111–148), is amended by striking ''the 1-year period beginning on July 1, 2010'' and inserting ''the 2-year period beginning on July 1, 2010''.

SEC. 110. EXTENSION OF THE QUALIFYING INDIVIDUAL (QI) PROGRAM.

(a) EXTENSION.—Section 1902(a)(10)(E)(iv) of the Social Security Act (42 U.S.C. 1396a(a)(10)(E)(iv)) is amended by striking ''December 2010'' and inserting ''December 2011''.

(b) EXTENDING TOTAL AMOUNT AVAILABLE FOR ALLOCATION.—Section 1933(g) of such Act (42 U.S.C. 1396u-3(g)) is amended—

(1) in paragraph (2)—

(A) by striking ''and'' at the end of subparagraph (M);

(B) in subparagraph (N), by striking the period at the end and inserting a semicolon; and

(C) by adding at the end the following new subparagraphs:

''(O) for the period that begins on January 1, 2011, and ends on September 30, 2011, the total allocation amount is $720,000,000; and

''(P) for the period that begins on October 1, 2011, and ends on December 31, 2011, the total allocation amount is $280,000,000.''; and

(2) in paragraph (3), in the matter preceding subparagraph (A), by striking ''or (N)'' and inserting ''(N), or (P)''.

SEC. 111. EXTENSION OF TRANSITIONAL MEDICAL ASSISTANCE (TMA).

Sections 1902(e)(1)(B) and 1925(f) of the Social Security Act (42 U.S.C. 1396a(e)(1)(B), 1396r–6(f)) are each amended by striking ''December 31, 2010'' and inserting ''December 31, 2011''.

SEC. 112. SPECIAL DIABETES PROGRAMS.

(1) SPECIAL DIABETES PROGRAMS FOR TYPE I DIABETES.—Section 330B(b)(2)(C) of the Public Health Service Act (42 U.S.C. 254c–2(b)(2)(C)) is amended by striking ''2011'' and inserting ''2013''.

(2) SPECIAL DIABETES PROGRAMS FOR INDIANS.—Section 330C(c)(2)(C) of the Public Health Service Act (42 U.S.C. 254c–3(c)(2)(C)) is amended by striking ''2011'' and inserting ''2013''.

TITLE II—OTHER PROVISIONS

SEC. 201. CLARIFICATION OF EFFECTIVE DATE OF PART B SPECIAL ENROLLMENT PERIOD FOR DISABLED TRICARE BENEFICIARIES.

Effective as if included in the enactment of Public Law 111–148, section 3110(a)(2) of such Act is amended to read as follows:

''(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to elections made on and after the date of the enactment of this Act.''.

SEC. 202. REPEAL OF DELAY OF RUG–IV.

Effective as if included in the enactment of Public Law 111–148, section 10325 of such Act is repealed.

SEC. 203. CLARIFICATION FOR AFFILIATED HOSPITALS FOR DISTRIBUTION OF ADDITIONAL RESIDENCY POSITIONS.

Effective as if included in the enactment of section 5503(a) of Public Law 111–148, section 1886(h)(8) of the Social Security Act (42 U.S.C. 1395ww(h)(8)), as added by such section 5503(a), is amended by adding at the end the following new subparagraph:

''(I) AFFILIATION.—The provisions of this paragraph shall be applied to hospitals which are members of the same affiliated group (as defined by the Secretary under paragraph (4)(H)(ii)) and the reference resident level for each such hospital shall be the reference resident level with respect to the cost reporting period that results in the smallest difference between the reference resident level and the otherwise applicable resident limit.''.

SEC. 204. CONTINUED INCLUSION OF ORPHAN DRUGS IN DEFINITION OF COVERED OUTPATIENT DRUGS WITH RESPECT TO CHILDREN'S HOSPITALS UNDER THE 340B DRUG DISCOUNT PROGRAM.

(a) DEFINITION OF COVERED OUTPATIENT DRUG.—

(1) AMENDMENT.—Subsection (e) of section 340B of the Public Health Service Act (42 U.S.C. 256b) is amended by striking ''covered entities described in subparagraph (M)'' and inserting ''covered entities described in subparagraph (M) (other than a children's hospital described in subparagraph (M))''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect as if included in the enactment of section 2302 of the Health Care and Education Reconciliation Act of 2010 (Public Law 111–152).

(b) TECHNICAL AMENDMENT.—Subparagraph (B) of section 1927(a)(5) of the Social Security Act (42 U.S.C. 1396r–8(a)(5)) is amended by striking ''and a children's hospital'' and all that follows through the end of the subparagraph and inserting a period.

SEC. 205. MEDICAID AND CHIP TECHNICAL CORRECTIONS.

(a) REPEAL OF EXCLUSION OF CERTAIN INDIVIDUALS AND ENTITIES FROM MEDICAID.—Section 1902(a) of the Social Security Act (42 U.S.C. 1396a(a)) is amended by striking paragraph (78).

(b) INCOME LEVEL FOR CERTAIN CHILDREN UNDER MEDICAID.—Section 1902(l)(2)(C) of the Social Security Act (42 U.S.C. 1396a(l)(2)(C)) is amended by striking ''133 percent'' and inserting ''100 percent (or, beginning January 1, 2014, 133 percent)''.

(c) CALCULATION AND PUBLICATION OF PAYMENT ERROR RATE MEASUREMENT FOR CERTAIN YEARS.—Section 601(b) of the Children's Health Insurance Program Reauthorization Act of 2009 (Public Law 111–3) is amended by adding at the end the following: ''The Secretary is not required under this subsection to calculate or publish a national or a State-specific error rate for fiscal year 2009 or fiscal year 2010.''.

(d) CORRECTIONS TO EXCEPTIONS TO EXCLUSION OF CHILDREN OF CERTAIN EMPLOYEES.—Section 2110(b)(6) of the Social Security Act (42 U.S.C. 1397jj(b)(6)) is amended—

(1) in subparagraph (B)—

(A) by striking ''PER PERSON'' in the heading; and

(B) by striking ''each employee'' and inserting ''employees''; and

(2) in subparagraph (C), by striking '', on a case-by-case basis,''.

(e) ELECTRONIC HEALTH RECORDS.—Effective as if included in the enactment of section 4201(a)(2) of the American Recovery and Reinvestment Act of 2009 (Public Law 111–5), section 1903(t) of the Social Security Act (42 U.S.C. 1396b(t)) is amended—

(1) in paragraph (3)(E), by striking ''reduced by any payment that is made to such Medicaid provider from any other source (other than under this subsection or by a State or local government)'' and inserting ''reduced by the average payment the Secretary estimates will be made to such Medicaid providers (determined on a percentage or other basis for such classes or types of

providers as the Secretary may specify) from other sources (other than under this subsection, or by the Federal government or a State or local government)''; and

(2) in paragraph (6)(B), by inserting before the period the following: ''and shall be determined to have met such responsibility to the extent that the payment to the Medicaid provider is not in excess of 85 percent of the net average allowable cost''.

(f) CORRECTIONS OF DESIGNATIONS.—

(1) Section 1902 of the Social Security Act (42 U.S.C. 1396a) is amended—

(A) in subsection (a)(10), in the matter following subparagraph (G), by striking ''and'' before ''(XVI) the medical'' and by striking ''(XVI) if'' and inserting ''(XVII) if'';

(B) in subsection (a)(23), by striking ''(ii)'' and inserting ''(kk)'';

(C) in subsection (a)(77), by striking ''(ii)'' and inserting ''(kk)'';

(D) in subsection (ii)(2), as added by section 2303(a)(2) of Public Law 111–148, by striking ''(XV)'' and inserting ''(XVI)''; and

(E) by redesignating subsection (ii), as added by section 6401(b)(1)(B) of Public Law 111–148, as subsection (kk) and transferring such subsection so as to appear after subsection (jj) of that section.

(2) Section 2107(e)(1) of the Social Security Act (42 U.S.C. 1397gg(e)(1)) is amended—

(A) in subparagraph (D), as added by section 6401(c) of Public Law 111–148, by striking ''(ii)'' and inserting ''(kk)''; and

(B) by redesignating the subparagraph (N) of that section added by 2101(e) of Public Law 111–148 as subparagraph (O).

SEC. 206. FUNDING FOR CLAIMS REPROCESSING.

For purposes of carrying out the provisions of, and amendments made by, this Act that relate to title XVIII of the Social Security Act, and other provisions of, or relating to, such title that ensure appropriate payment of claims, there are appropriated to the Secretary of Health and Human Services for the Centers for Medicare & Medicaid Services Program Management Account, from amounts in the general fund of the Treasury not otherwise appropriated, $200,000,000. Amounts appropriated under the preceding sentence shall be in addition to any other funds available for such purposes, shall remain available until expended, and shall not be used to implement changes to title XVIII of the Social Security Act made by Public Laws 111-148 and 111-152.

SEC. 207. REVISION TO THE MEDICARE IMPROVEMENT FUND.

Section 1898(b)(1)(B) of the Social Security Act (42 U.S.C. 1395iii(b)(1)(B)) is amended by striking ''$550,000,000'' and inserting ''$275,000,000''.

SEC. 208. LIMITATIONS ON AGGREGATE AMOUNT RECOVERED ON RECONCILIATION OF THE HEALTH INSURANCE TAX CREDIT AND THE ADVANCE OF THAT CREDIT.

(a) IN GENERAL.—So much of section 36B(f)(2)(B) of the Internal Revenue Code of 1986 as precedes clause (ii) thereof is amended to read as follows:

''(B) LIMITATION ON INCREASE.—

''(i) IN GENERAL.—In the case of a taxpayer whose household income is less than 500 percent of the poverty line for the size of the family involved for the taxable year, the amount of the increase under subparagraph (A) shall in no event exceed the applicable dollar amount determined in accordance with the following table (one-half of such amount in the case of a taxpayer whose tax is determined under section 1(c) for the taxable year):

''If the household income (expressed as a percent of poverty line) is:	The applicable dollar amount is:
Less than 200%	$600
At least 200% but less than 250%	$1,000
At least 250% but less than 300%	$1,500
At least 300% but less than 350%	$2,000
At least 350% but less than 400%	$2,500
At least 400% but less than 450%	$3,000
At least 450% but less than 500%	$3,500

(b) CONFORMING AMENDMENT.—Section 36B(f)(2)(B)(ii) of such Code is amended by inserting ''in the table contained'' after ''each of the dollar amounts''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2013.

SEC. 209. DETERMINATION OF BUDGETARY EFFECTS.

(a) IN GENERAL.—The budgetary effects of this Act, for the purpose of complying with the Statutory Pay-As-You-Go Act of 2010, shall be determined by reference to the latest statement titled ''Budgetary Effects of PAYGO Legislation'' for this Act, submitted for printing in the Congressional Record by the Chairman of the Senate Budget Committee, provided that such statement has been submitted prior to the vote on passage.

(b) EMERGENCY DESIGNATION FOR CONGRESSIONAL ENFORCEMENT.—In the House of Representatives, this Act, with the exception of section 101, is designated as an emergency for purposes of pay-as-you-go principles.

SA 4743. Mr. BENNET (for Mr. REID) proposed an amendment to the bill H.R. 4994, to extend certain expiring provisions of the Medicare and Medicaid programs, and for other purposes; as follows:

Amend the title so as to read: ''An Act to extend certain expiring provisions of the Medicare and Medicaid programs, and for other purposes.''.

SA 4744. Mr. REID (for Mr. BINGAMAN (for himself, Mr. CRAPO, and Mr. KERRY)) proposed an amendment to the bill H.R. 4337, to amend the Internal Revenue Code of 1986 to modify certain rules applicable to regulated investment companies, and for other purposes; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE, ETC.

(a) SHORT TITLE.—This Act may be cited as the ''Regulated Investment Company Modernization Act of 2010''.

(b) REFERENCE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

(c) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

TITLE I—CAPITAL LOSS CARRYOVERS OF REGULATED INVESTMENT COMPANIES

SEC. 101. CAPITAL LOSS CARRYOVERS OF REGULATED INVESTMENT COMPANIES.

(a) IN GENERAL.—Subsection (a) of section 1212 is amended by redesignating paragraph (3) as paragraph (4) and by inserting after paragraph (2) the following new paragraph:

''(3) REGULATED INVESTMENT COMPANIES.—

''(A) IN GENERAL.—If a regulated investment company has a net capital loss for any taxable year—

''(i) paragraph (1) shall not apply to such loss,

''(ii) the excess of the net short-term capital loss over the net long-term capital gain for such year shall be a short-term capital loss arising on the first day of the next taxable year, and

''(iii) the excess of the net long-term capital loss over the net short-term capital gain for such year shall be a long-term capital loss arising on the first day of the next taxable year.

''(B) COORDINATION WITH GENERAL RULE.—If a net capital loss to which paragraph (1) applies is carried over to a taxable year of a regulated investment company—

''(i) LOSSES TO WHICH THIS PARAGRAPH APPLIES.—Clauses (ii) and (iii) of subparagraph (A) shall be applied without regard to any

amount treated as a short-term capital loss under paragraph (1).

''(ii) LOSSES TO WHICH GENERAL RULE APPLIES.—Paragraph (1) shall be applied by substituting 'net capital loss for the loss year or any taxable year thereafter (other than a net capital loss to which paragraph (3)(A) applies)' for 'net capital loss for the loss year or any taxable year thereafter'.''.

(b) CONFORMING AMENDMENTS.—

(1) Subparagraph (C) of section 1212(a)(1) is amended to read as follows:

''(C) a capital loss carryover to each of the 10 taxable years succeeding the loss year, but only to the extent such loss is attributable to a foreign expropriation loss,''.

(2) Paragraph (10) of section 1222 is amended by striking ''section 1212'' and inserting ''section 1212(a)(1)''.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to net capital losses for taxable years beginning after the date of the enactment of this Act.

(2) COORDINATION RULES.—Subparagraph (B) of section 1212(a)(3) of the Internal Revenue Code of 1986, as added by this section, shall apply to taxable years beginning after the date of the enactment of this Act.

TITLE II—MODIFICATION OF GROSS INCOME AND ASSET TESTS OF REGULATED INVESTMENT COMPANIES

SEC. 201. SAVINGS PROVISIONS FOR FAILURES OF REGULATED INVESTMENT COMPANIES TO SATISFY GROSS INCOME AND ASSET TESTS.

(a) ASSET TEST.—Subsection (d) of section 851 is amended—

(1) by striking ''A corporation which meets'' and inserting the following:

''(1) IN GENERAL.—A corporation which meets'', and

(2) by adding at the end the following new paragraph:

''(2) SPECIAL RULES REGARDING FAILURE TO SATISFY REQUIREMENTS.—If paragraph (1) does not preserve a corporation's status as a regulated investment company for any particular quarter—

''(A) IN GENERAL.—A corporation that fails to meet the requirements of subsection (b)(3) (other than a failure described in subparagraph (B)(i)) for such quarter shall nevertheless be considered to have satisfied the requirements of such subsection for such quarter if—

''(i) following the corporation's identification of the failure to satisfy the requirements of such subsection for such quarter, a description of each asset that causes the corporation to fail to satisfy the requirements of such subsection at the close of such quarter is set forth in a schedule for such quarter filed in the manner provided by the Secretary,

''(ii) the failure to meet the requirements of such subsection for such quarter is due to reasonable cause and not due to willful neglect, and

''(iii)(I) the corporation disposes of the assets set forth on the schedule specified in clause (i) within 6 months after the last day of the quarter in which the corporation's identification of the failure to satisfy the requirements of such subsection occurred or such other time period prescribed by the Secretary and in the manner prescribed by the Secretary, or

''(II) the requirements of such subsection are otherwise met within the time period specified in subclause (I).

''(B) RULE FOR CERTAIN DE MINIMIS FAILURES.—A corporation that fails to meet the requirements of subsection (b)(3) for such quarter shall nevertheless be considered to have satisfied the requirements of such subsection for such quarter if—

''(i) such failure is due to the ownership of assets the total value of which does not exceed the lesser of—

''(I) 1 percent of the total value of the corporation's assets at the end of the quarter for which such measurement is done, or

''(II) $10,000,000, and

''(ii)(I) the corporation, following the identification of such failure, disposes of assets in order to meet the requirements of such subsection within 6 months after the last day of the quarter in which the corporation's identification of the failure to satisfy the requirements of such subsection occurred or such other time period prescribed by the Secretary and in the manner prescribed by the Secretary, or

''(II) the requirements of such subsection are otherwise met within the time period specified in subclause (I).

''(C) TAX.—

''(i) TAX IMPOSED.—If subparagraph (A) applies to a corporation for any quarter, there is hereby imposed on such corporation a tax in an amount equal to the greater of—

''(I) $50,000, or

''(II) the amount determined (pursuant to regulations promulgated by the Secretary) by multiplying the net income generated by the assets described in the schedule specified in subparagraph (A)(i) for the period specified in clause (ii) by the highest rate of tax specified in section 11.

''(ii) PERIOD.—For purposes of clause (i)(II), the period described in this clause is the period beginning on the first date that the failure to satisfy the requirements of subsection (b)(3) occurs as a result of the ownership of such assets and ending on the earlier of the date on which the corporation disposes of such assets or the end of the first quarter when there is no longer a failure to satisfy such subsection.

''(iii) ADMINISTRATIVE PROVISIONS.—For purposes of subtitle F, a tax imposed by this subparagraph shall be treated as an excise tax with respect to which the deficiency procedures of such subtitle apply.''.

(b) GROSS INCOME TEST.—Section 851 is amended by adding at the end the following new subsection:

''(i) FAILURE TO SATISFY GROSS INCOME TEST.—

''(1) DISCLOSURE REQUIREMENT.—A corporation that fails to meet the requirement of paragraph (2) of subsection (b) for any taxable year shall nevertheless be considered to have satisfied the requirement of such paragraph for such taxable year if—

''(A) following the corporation's identification of the failure to meet such requirement for such taxable year, a description of each item of its gross income described in such paragraph is set forth in a schedule for such taxable year filed in the manner provided by the Secretary, and

''(B) the failure to meet such requirement is due to reasonable cause and not due to willful neglect.

''(2) IMPOSITION OF TAX ON FAILURES.—If paragraph (1) applies to a regulated investment company for any taxable year, there is hereby imposed on such company a tax in an amount equal to the excess of—

''(A) the gross income of such company which is not derived from sources referred to in subsection (b)(2), over

''(B) ⅑ of the gross income of such company which is derived from such sources.''.

(c) DEDUCTION OF TAXES PAID FROM INVESTMENT COMPANY TAXABLE INCOME.—Paragraph (2) of section 852(b) is amended by adding at the end the following new subparagraph:

''(G) There shall be deducted an amount equal to the tax imposed by subsections (d)(2) and (i) of section 851 for the taxable year.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years with respect to which the due date (determined with regard to any extensions) of the return of tax for such taxable year is after the date of the enactment of this Act.

TITLE III—MODIFICATION OF RULES RELATED TO DIVIDENDS AND OTHER DISTRIBUTIONS

SEC. 301. MODIFICATION OF DIVIDEND DESIGNATION REQUIREMENTS AND ALLOCATION RULES FOR REGULATED INVESTMENT COMPANIES.

(a) CAPITAL GAIN DIVIDENDS.—

(1) IN GENERAL.—Subparagraph (C) of section 852(b)(3) is amended to read as follows:

''(C) DEFINITION OF CAPITAL GAIN DIVIDEND.—For purposes of this part—

''(i) IN GENERAL.—Except as provided in clause (ii), a capital gain dividend is any dividend, or part thereof, which is reported by the company as a capital gain dividend in written statements furnished to its shareholders.

''(ii) EXCESS REPORTED AMOUNTS.—If the aggregate reported amount with respect to the company for any taxable year exceeds the net capital gain of the company for such taxable year, a capital gain dividend is the excess of—

''(I) the reported capital gain dividend amount, over

''(II) the excess reported amount which is allocable to such reported capital gain dividend amount.

''(iii) ALLOCATION OF EXCESS REPORTED AMOUNT.—

''(I) IN GENERAL.—Except as provided in subclause (II), the excess reported amount (if any) which is allocable to the reported capital gain dividend amount is that portion of the excess reported amount which bears the same ratio to the excess reported amount as the reported capital gain dividend amount bears to the aggregate reported amount.

''(II) SPECIAL RULE FOR NONCALENDAR YEAR TAXPAYERS.—In the case of any taxable year which does not begin and end in the same calendar year, if the post-December reported amount equals or exceeds the excess reported amount for such taxable year, subclause (I) shall be applied by substituting 'post-December reported amount' for 'aggregate reported amount' and no excess reported amount shall be allocated to any dividend paid on or before December 31 of such taxable year.

''(iv) DEFINITIONS.—For purposes of this subparagraph—

''(I) REPORTED CAPITAL GAIN DIVIDEND AMOUNT.—The term 'reported capital gain dividend amount' means the amount reported to its shareholders under clause (i) as a capital gain dividend.

''(II) EXCESS REPORTED AMOUNT.—The term 'excess reported amount' means the excess of the aggregate reported amount over the net capital gain of the company for the taxable year.

''(III) AGGREGATE REPORTED AMOUNT.—The term 'aggregate reported amount' means the aggregate amount of dividends reported by the company under clause (i) as capital gain dividends for the taxable year (including capital gain dividends paid after the close of the taxable year described in section 855).

''(IV) POST-DECEMBER REPORTED AMOUNT.—The term 'post-December reported amount' means the aggregate reported amount determined by taking into account only dividends paid after December 31 of the taxable year.

''(v) ADJUSTMENT FOR DETERMINATIONS.—If there is an increase in the excess described in subparagraph (A) for the taxable year which results from a determination (as defined in section 860(e)), the company may, subject to the limitations of this subparagraph, increase the amount of capital gain dividends reported under clause (i).

''(vi) SPECIAL RULE FOR LOSSES LATE IN THE CALENDAR YEAR.—For special rule for certain losses after October 31, see paragraph (8).''.

(2) CONFORMING AMENDMENT.—Subparagraph (B) of section 860(f)(2) is amended by inserting ''or reported (as the case may be)'' after ''designated''.

(b) EXEMPT-INTEREST DIVIDENDS.—Subparagraph (A) of section 852(b)(5) is amended to read as follows:

''(A) DEFINITION OF EXEMPT-INTEREST DIVIDEND.—

''(i) IN GENERAL.—Except as provided in clause (ii), an exempt-interest dividend is any dividend or part thereof (other than a capital gain dividend) paid by a regulated investment company and reported by the company as an exempt-interest dividend in written statements furnished to its shareholders.

''(ii) EXCESS REPORTED AMOUNTS.—If the aggregate reported amount with respect to the company for any taxable year exceeds the exempt interest of the company for such taxable year, an exempt-interest dividend is the excess of—

''(I) the reported exempt-interest dividend amount, over

''(II) the excess reported amount which is allocable to such reported exempt-interest dividend amount.

''(iii) ALLOCATION OF EXCESS REPORTED AMOUNT.—

''(I) IN GENERAL.—Except as provided in subclause (II), the excess reported amount (if any) which is allocable to the reported exempt-interest dividend amount is that portion of the excess reported amount which bears the same ratio to the excess reported amount as the reported exempt-interest dividend amount bears to the aggregate reported amount.

''(II) SPECIAL RULE FOR NONCALENDAR YEAR TAXPAYERS.—In the case of any taxable year which does not begin and end in the same calendar year, if the post-December reported amount equals or exceeds the excess reported amount for such taxable year, subclause (I) shall be applied by substituting 'post-December reported amount' for 'aggregate reported amount' and no excess reported amount shall be allocated to any dividend paid on or before December 31 of such taxable year.

''(iv) DEFINITIONS.—For purposes of this subparagraph—

''(I) REPORTED EXEMPT-INTEREST DIVIDEND AMOUNT.—The term 'reported exempt-interest dividend amount' means the amount reported to its shareholders under clause (i) as an exempt-interest dividend.

''(II) EXCESS REPORTED AMOUNT.—The term 'excess reported amount' means the excess of the aggregate reported amount over the exempt interest of the company for the taxable year.

''(III) AGGREGATE REPORTED AMOUNT.—The term 'aggregate reported amount' means the aggregate amount of dividends reported by the company under clause (i) as exempt-interest dividends for the taxable year (including exempt-interest dividends paid after the close of the taxable year described in section 855).

''(IV) POST-DECEMBER REPORTED AMOUNT.—The term 'post-December reported amount' means the aggregate reported amount determined by taking into account only dividends paid after December 31 of the taxable year.

''(V) EXEMPT INTEREST.—The term 'exempt interest' means, with respect to any regulated investment company, the excess of the amount of interest excludable from gross income under section 103(a) over the amounts disallowed as deductions under sections 265 and 171(a)(2).''.

(c) FOREIGN TAX CREDITS.—

(1) IN GENERAL.—Subsection (c) of section 853 is amended—

(A) by striking ''so designated by the company in a written notice mailed to its shareholders not later than 60 days after the close of the taxable year'' and inserting ''so reported by the company in a written statement furnished to such shareholder'', and

(B) by striking ''NOTICE'' in the heading and inserting ''STATEMENTS''.

(2) CONFORMING AMENDMENTS.—Subsection (d) of section 853 is amended—

(A) by striking ''and the notice to shareholders required by subsection (c)'' in the text thereof, and

(B) by striking ''AND NOTIFYING SHAREHOLDERS'' in the heading thereof.

(d) CREDITS FOR TAX CREDIT BONDS.—

(1) IN GENERAL.—Subsection (c) of section 853A is amended—

(A) by striking ''so designated by the regulated investment company in a written notice mailed to its shareholders not later than 60 days after the close of its taxable year'' and inserting ''so reported by the regulated investment company in a written statement furnished to such shareholder'', and

(B) by striking ''NOTICE'' in the heading and inserting ''STATEMENTS''.

(2) CONFORMING AMENDMENTS.—Subsection (d) of section 853A is amended—

(A) by striking ''and the notice to shareholders required by subsection (c)'' in the text thereof, and

(B) by striking ''AND NOTIFYING SHAREHOLDERS'' in the heading thereof.

(e) DIVIDEND RECEIVED DEDUCTION, ETC.—

(1) IN GENERAL.—Paragraph (1) of section 854(b) is amended—

(A) by striking ''designated under this subparagraph by the regulated investment company'' in subparagraph (A) and inserting ''reported by the regulated investment company as eligible for such deduction in written statements furnished to its shareholders'',

(B) by striking ''designated by the regulated investment company'' in subparagraph (B)(i) and inserting ''reported by the regulated investment company as qualified dividend income in written statements furnished to its shareholders'',

(C) by striking ''designated'' in subparagraph (C)(i) and inserting ''reported'', and

(D) by striking ''designated'' in subparagraph (C)(ii) and inserting ''reported''.

(2) CONFORMING AMENDMENTS.—Subsection (b) of section 854 is amended by striking paragraph (2) and by redesignating paragraphs (3), (4), and (5), as paragraphs (2), (3), and (4), respectively.

(f) DIVIDENDS PAID TO CERTAIN FOREIGN PERSONS.—

(1) INTEREST-RELATED DIVIDENDS.—Subparagraph (C) of section 871(k)(1) is amended by striking all that precedes ''any taxable year of the company beginning'' and inserting the following:

''(C) INTEREST-RELATED DIVIDEND.—For purposes of this paragraph—

''(i) IN GENERAL.—Except as provided in clause (ii), an interest related dividend is any dividend, or part thereof, which is reported by the company as an interest related dividend in written statements furnished to its shareholders.

''(ii) EXCESS REPORTED AMOUNTS.—If the aggregate reported amount with respect to the company for any taxable year exceeds the qualified net interest income of the company for such taxable year, an interest related dividend is the excess of—

''(I) the reported interest related dividend amount, over

''(II) the excess reported amount which is allocable to such reported interest related dividend amount.

''(iii) ALLOCATION OF EXCESS REPORTED AMOUNT.—

''(I) IN GENERAL.—Except as provided in subclause (II), the excess reported amount (if any) which is allocable to the reported interest related dividend amount is that portion of the excess reported amount which bears the same ratio to the excess reported amount as the reported interest related dividend amount bears to the aggregate reported amount.

''(II) SPECIAL RULE FOR NONCALENDAR YEAR TAXPAYERS.—In the case of any taxable year which does not begin and end in the same calendar year, if the post-December reported amount equals or exceeds the excess reported amount for such taxable year, subclause (I) shall be applied by substituting 'post-December reported amount' for 'aggregate reported amount' and no excess reported amount shall be allocated to any dividend paid on or before December 31 of such taxable year.

''(iv) DEFINITIONS.—For purposes of this subparagraph—

''(I) REPORTED INTEREST RELATED DIVIDEND AMOUNT.—The term 'reported interest related dividend amount' means the amount reported to its shareholders under clause (i) as an interest related dividend.

''(II) EXCESS REPORTED AMOUNT.—The term 'excess reported amount' means the excess of the aggregate reported amount over the qualified net interest income of the company for the taxable year.

''(III) AGGREGATE REPORTED AMOUNT.—The term 'aggregate reported amount' means the aggregate amount of dividends reported by the company under clause (i) as interest related dividends for the taxable year (including interest related dividends paid after the close of the taxable year described in section 855).

''(IV) POST-DECEMBER REPORTED AMOUNT.—The term 'post-December reported amount' means the aggregate reported amount determined by taking into account only dividends paid after December 31 of the taxable year.

''(v) TERMINATION.—The term 'interest related dividend' shall not include any dividend with respect to''.

(2) SHORT-TERM CAPITAL GAIN DIVIDENDS.—Subparagraph (C) of section 871(k)(2) is amended by striking all that precedes ''any taxable year of the company beginning'' and inserting the following:

''(C) SHORT-TERM CAPITAL GAIN DIVIDEND.—For purposes of this paragraph—

''(i) IN GENERAL.—Except as provided in clause (ii), the term 'short-term capital gain dividend' means any dividend, or part thereof, which is reported by the company as a short-term capital gain dividend in written statements furnished to its shareholders.

''(ii) EXCESS REPORTED AMOUNTS.—If the aggregate reported amount with respect to the company for any taxable year exceeds the qualified short-term gain of the company for such taxable year, the term 'short-term capital gain dividend' means the excess of—

''(I) the reported short-term capital gain dividend amount, over

''(II) the excess reported amount which is allocable to such reported short-term capital gain dividend amount.

''(iii) ALLOCATION OF EXCESS REPORTED AMOUNT.—

''(I) IN GENERAL.—Except as provided in subclause (II), the excess reported amount (if any) which is allocable to the reported short-term capital gain dividend amount is that portion of the excess reported amount which bears the same ratio to the excess reported amount as the reported short-term capital gain dividend amount bears to the aggregate reported amount.

''(II) SPECIAL RULE FOR NONCALENDAR YEAR TAXPAYERS.—In the case of any taxable year which does not begin and end in the same calendar year, if the post-December reported amount equals or exceeds the excess reported amount for such taxable year, subclause (I)

shall be applied by substituting 'post-December reported amount' for 'aggregate reported amount' and no excess reported amount shall be allocated to any dividend paid on or before December 31 of such taxable year.

''(iv) DEFINITIONS.—For purposes of this subparagraph—

''(I) REPORTED SHORT-TERM CAPITAL GAIN DIVIDEND AMOUNT.—The term 'reported short-term capital gain dividend amount' means the amount reported to its shareholders under clause (i) as a short-term capital gain dividend.

''(II) EXCESS REPORTED AMOUNT.—The term 'excess reported amount' means the excess of the aggregate reported amount over the qualified short-term gain of the company for the taxable year.

''(III) AGGREGATE REPORTED AMOUNT.—The term 'aggregate reported amount' means the aggregate amount of dividends reported by the company under clause (i) as short-term capital gain dividends for the taxable year (including short-term capital gain dividends paid after the close of the taxable year described in section 855).

''(IV) POST-DECEMBER REPORTED AMOUNT.—The term 'post-December reported amount' means the aggregate reported amount determined by taking into account only dividends paid after December 31 of the taxable year.

''(v) TERMINATION.—The term 'short-term capital gain dividend' shall not include any dividend with respect to''.

(g) CONFORMING AMENDMENTS.—Section 855 is amended—

(1) by striking subsection (c) and redesignating subsection (d) as subsection (c), and

(2) by striking '', (c) and (d)'' in subsection (a) and inserting ''and (c)''.

(h) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

(i) APPLICATION OF JGTRRA SUNSET.—Section 303 of the Jobs and Growth Tax Relief Reconciliation Act of 2003 shall apply to the amendments made by subparagraphs (B) and (D) of subsection (e)(1) to the same extent and in the same manner as section 303 of such Act applies to the amendments made by section 302 of such Act.

SEC. 302. EARNINGS AND PROFITS OF REGULATED INVESTMENT COMPANIES.

(a) IN GENERAL.—Paragraph (1) of section 852(c) is amended to read as follows:

''(1) TREATMENT OF NONDEDUCTIBLE ITEMS.—

''(A) NET CAPITAL LOSS.—If a regulated investment company has a net capital loss for any taxable year—

''(i) such net capital loss shall not be taken into account for purposes of determining the company's earnings and profits, and

''(ii) any capital loss arising on the first day of the next taxable year by reason of clause (ii) or (iii) of section 1212(a)(3)(A) shall be treated as so arising for purposes of determining earnings and profits.

''(B) OTHER NONDEDUCTIBLE ITEMS.—

''(i) IN GENERAL.—The earnings and profits of a regulated investment company for any taxable year (but not its accumulated earnings and profits) shall not be reduced by any amount which is not allowable as a deduction (other than by reason of section 265 or 171(a)(2)) in computing its taxable income for such taxable year.

''(ii) COORDINATION WITH TREATMENT OF NET CAPITAL LOSSES.—Clause (i) shall not apply to a net capital loss to which subparagraph (A) applies.''.

(b) CONFORMING AMENDMENTS.—

(1) Subsection (c) of section 852 is amended by adding at the end the following new paragraph:

''(4) REGULATED INVESTMENT COMPANY.—For purposes of this subsection, the term 'regulated investment company' includes a domestic corporation which is a regulated investment company determined without regard to the requirements of subsection (a).''.

(2) Paragraphs (1)(A) and (2)(A) of section 871(k) are each amended by inserting ''which meets the requirements of section 852(a) for the taxable year with respect to which the dividend is paid'' before the period at the end.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 303. PASS-THRU OF EXEMPT-INTEREST DIVIDENDS AND FOREIGN TAX CREDITS IN FUND OF FUNDS STRUCTURE.

(a) IN GENERAL.—Section 852 is amended by adding at the end the following new subsection:

''(g) SPECIAL RULES FOR FUND OF FUNDS.—

''(1) IN GENERAL.—In the case of a qualified fund of funds—

''(A) such fund shall be qualified to pay exempt-interest dividends to its shareholders without regard to whether such fund satisfies the requirements of the first sentence of subsection (b)(5), and

''(B) such fund may elect the application of section 853 (relating to foreign tax credit allowed to shareholders) without regard to the requirement of subsection (a)(1) thereof.

''(2) QUALIFIED FUND OF FUNDS.—For purposes of this subsection, the term 'qualified fund of funds' means a regulated investment company if (at the close of each quarter of the taxable year) at least 50 percent of the value of its total assets is represented by interests in other regulated investment companies.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 304. MODIFICATION OF RULES FOR SPILLOVER DIVIDENDS OF REGULATED INVESTMENT COMPANIES.

(a) DEADLINE FOR DECLARATION OF DIVIDEND.—Paragraph (1) of section 855(a) is amended to read as follows:

''(1) declares a dividend before the later of—

''(A) the 15th day of the 9th month following the close of the taxable year, or

''(B) in the case of an extension of time for filing the company's return for the taxable year, the due date for filing such return taking into account such extension, and''.

(b) DEADLINE FOR DISTRIBUTION OF DIVIDEND.—Paragraph (2) of section 855(a) is amended by striking ''the first regular dividend payment'' and inserting ''the first dividend payment of the same type of dividend''.

(c) SHORT-TERM CAPITAL GAIN.—Subsection (a) of section 855 is amended by adding at the end the following: ''For purposes of paragraph (2), a dividend attributable to any short-term capital gain with respect to which a notice is required under the Investment Company Act of 1940 shall be treated as the same type of dividend as a capital gain dividend.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to distributions in taxable years beginning after the date of the enactment of this Act.

SEC. 305. RETURN OF CAPITAL DISTRIBUTIONS OF REGULATED INVESTMENT COMPANIES.

(a) IN GENERAL.—Subsection (b) of section 316 is amended by adding at the end the following new paragraph:

''(4) CERTAIN DISTRIBUTIONS BY REGULATED INVESTMENT COMPANIES IN EXCESS OF EARNINGS AND PROFITS.—In the case of a regulated investment company that has a taxable year other than a calendar year, if the distributions by the company with respect to any class of stock of such company for the taxable year exceed the company's current and accumulated earnings and profits which may be used for the payment of dividends on such class of stock, the company's current earnings and profits shall, for purposes of subsection (a), be allocated first to distributions with respect to such class of stock made during the portion of the taxable year which precedes January 1.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to distributions made in taxable years beginning after the date of the enactment of this Act.

SEC. 306. DISTRIBUTIONS IN REDEMPTION OF STOCK OF A REGULATED INVESTMENT COMPANY.

(a) REDEMPTIONS TREATED AS EXCHANGES.—

(1) IN GENERAL.—Subsection (b) of section 302 is amended by redesignating paragraph (5) as paragraph (6) and by inserting after paragraph (4) the following new paragraph:

''(5) REDEMPTIONS BY CERTAIN REGULATED INVESTMENT COMPANIES.—Except to the extent provided in regulations prescribed by the Secretary, subsection (a) shall apply to any distribution in redemption of stock of a publicly offered regulated investment company (within the meaning of section 67(c)(2)(B)) if—

''(A) such redemption is upon the demand of the stockholder, and

''(B) such company issues only stock which is redeemable upon the demand of the stockholder.''.

(2) CONFORMING AMENDMENT.—Subsection (a) of section 302 is amended by striking ''or (4)'' and inserting ''(4), or (5)''.

(b) LOSSES ON REDEMPTIONS NOT DISALLOWED FOR FUND-OF-FUNDS REGULATED INVESTMENT COMPANIES.—Paragraph (3) of section 267(f) is amended by adding at the end the following new subparagraph:

''(D) REDEMPTIONS BY FUND-OF-FUNDS REGULATED INVESTMENT COMPANIES.—Except to the extent provided in regulations prescribed by the Secretary, subsection (a)(1) shall not apply to any distribution in redemption of stock of a regulated investment company if—

''(i) such company issues only stock which is redeemable upon the demand of the stockholder, and

''(ii) such redemption is upon the demand of another regulated investment company.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to distributions after the date of the enactment of this Act.

SEC. 307. REPEAL OF PREFERENTIAL DIVIDEND RULE FOR PUBLICLY OFFERED REGULATED INVESTMENT COMPANIES.

(a) IN GENERAL.—Subsection (c) of section 562 is amended by striking ''The amount'' and inserting ''Except in the case of a publicly offered regulated investment company (as defined in section 67(c)(2)(B)), the amount''.

(b) CONFORMING AMENDMENT.—Section 562(c) is amended by inserting ''(other than a publicly offered regulated investment company (as so defined))'' after ''regulated investment company'' in the second sentence thereof.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to distributions in taxable years beginning after the date of the enactment of this Act.

SEC. 308. ELECTIVE DEFERRAL OF CERTAIN LATE-YEAR LOSSES OF REGULATED INVESTMENT COMPANIES.

(a) IN GENERAL.—Paragraph (8) of section 852(b) is amended to read as follows:

''(8) ELECTIVE DEFERRAL OF CERTAIN LATE-YEAR LOSSES.—

''(A) IN GENERAL.—Except as otherwise provided by the Secretary, a regulated investment company may elect for any taxable year to treat any portion of any qualified

late-year loss for such taxable year as arising on the first day of the following taxable year for purposes of this title.

''(B) QUALIFIED LATE-YEAR LOSS.—For purposes of this paragraph, the term 'qualified late-year loss' means—

''(i) any post-October capital loss, and

''(ii) any late-year ordinary loss.

''(C) POST-OCTOBER CAPITAL LOSS.—For purposes of this paragraph, the term 'post-October capital loss' means the greatest of—

''(i) the net capital loss attributable to the portion of the taxable year after October 31,

''(ii) the net long-term capital loss attributable to such portion of the taxable year, or

''(iii) the net short-term capital loss attributable to such portion of the taxable year.

''(D) LATE-YEAR ORDINARY LOSS.—For purposes of this paragraph, the term 'late-year ordinary loss' means the excess (if any) of—

''(i) the sum of—

''(I) the specified losses (as defined in section 4982(e)(5)(B)(ii)) attributable to the portion of the taxable year after October 31, plus

''(II) the ordinary losses not described in subclause (I) attributable to the portion of the taxable year after December 31, over

''(ii) the sum of—

''(I) the specified gains (as defined in section 4982(e)(5)(B)(i)) attributable to the portion of the taxable year after October 31, plus

''(II) the ordinary income not described in subclause (I) attributable to the portion of the taxable year after December 31.

''(E) SPECIAL RULE FOR COMPANIES DETERMINING REQUIRED CAPITAL GAIN DISTRIBUTIONS ON TAXABLE YEAR BASIS.—In the case of a company to which an election under section 4982(e)(4) applies—

''(i) if such company's taxable year ends with the month of November, the amount of qualified late-year losses (if any) shall be computed without regard to any income, gain, or loss described in subparagraphs (C), (D)(i)(I), and (D)(ii)(I), and

''(ii) if such company's taxable year ends with the month of December, subparagraph (A) shall not apply.''.

(b) CONFORMING AMENDMENTS.—

(1) Subsection (b) of section 852 is amended by striking paragraph (10).

(2) Paragraph (2) of section 852(c) is amended by striking the first sentence and inserting the following: ''For purposes of applying this chapter to distributions made by a regulated investment company with respect to any calendar year, the earnings and profits of such company shall be determined without regard to any net capital loss attributable to the portion of the taxable year after October 31 and without regard to any late-year ordinary loss (as defined in subsection (b)(8)(D)).''

(3) Subparagraph (D) of section 871(k)(2) is amended by striking the last two sentences and inserting the following: ''For purposes of this subparagraph, the net short-term capital gain of the regulated investment company shall be computed by treating any short-term capital gain dividend includible in gross income with respect to stock of another regulated investment company as a short-term capital gain.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 309. EXCEPTION TO HOLDING PERIOD REQUIREMENT FOR CERTAIN REGULARLY DECLARED EXEMPT-INTEREST DIVIDENDS.

(a) IN GENERAL.—Subparagraph (E) of section 852(b)(4) is amended by striking all that precedes ''In the case of a regulated investment company'' and inserting the following:

''(E) EXCEPTION TO HOLDING PERIOD REQUIREMENT FOR CERTAIN REGULARLY DECLARED EXEMPT-INTEREST DIVIDENDS.—

''(i) DAILY DIVIDEND COMPANIES.—Except as otherwise provided by regulations, subparagraph (B) shall not apply with respect to a regular dividend paid by a regulated investment company which declares exempt-interest dividends on a daily basis in an amount equal to at least 90 percent of its net tax-exempt interest and distributes such dividends on a monthly or more frequent basis.

''(ii) AUTHORITY TO SHORTEN REQUIRED HOLDING PERIOD WITH RESPECT TO OTHER COMPANIES.—''.

(b) CONFORMING AMENDMENT.—Clause (ii) of section 852(b)(4)(E), as amended by subsection (a), is amended by inserting ''(other than a company described in clause (i))'' after ''regulated investment company''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to losses incurred on shares of stock for which the taxpayer's holding period begins after the date of the enactment of this Act.

TITLE IV—MODIFICATIONS RELATED TO EXCISE TAX APPLICABLE TO REGULATED INVESTMENT COMPANIES

SEC. 401. EXCISE TAX EXEMPTION FOR CERTAIN REGULATED INVESTMENT COMPANIES OWNED BY TAX EXEMPT ENTITIES.

(a) IN GENERAL.—Subsection (f) of section 4982 is amended—

(1) by striking ''either'' in the matter preceding paragraph (1),

(2) by striking ''or'' at the end of paragraph (1),

(3) by striking the period at the end of paragraph (2), and

(4) by inserting after paragraph (2) the following new paragraphs:

''(3) any other tax-exempt entity whose ownership of beneficial interests in the company would not preclude the application of section 817(h)(4), or

''(4) another regulated investment company described in this subsection.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to calendar years beginning after the date of the enactment of this Act.

SEC. 402. DEFERRAL OF CERTAIN GAINS AND LOSSES OF REGULATED INVESTMENT COMPANIES FOR EXCISE TAX PURPOSES.

(a) IN GENERAL.—Subsection (e) of section 4982 is amended by striking paragraphs (5) and (6) and inserting the following new paragraphs:

''(5) TREATMENT OF SPECIFIED GAINS AND LOSSES AFTER OCTOBER 31 OF CALENDAR YEAR.—

''(A) IN GENERAL.—Any specified gain or specified loss which (but for this paragraph) would be properly taken into account for the portion of the calendar year after October 31 shall be treated as arising on January 1 of the following calendar year.

''(B) SPECIFIED GAINS AND LOSSES.—For purposes of this paragraph—

''(i) SPECIFIED GAIN.—The term 'specified gain' means ordinary gain from the sale, exchange, or other disposition of property (including the termination of a position with respect to such property). Such term shall include any foreign currency gain attributable to a section 988 transaction (within the meaning of section 988) and any amount includible in gross income under section 1296(a)(1).

''(ii) SPECIFIED LOSS.—The term 'specified loss' means ordinary loss from the sale, exchange, or other disposition of property (including the termination of a position with respect to such property). Such term shall include any foreign currency loss attributable to a section 988 transaction (within the meaning of section 988) and any amount allowable as a deduction under section 1296(a)(2).

''(C) SPECIAL RULE FOR COMPANIES ELECTING TO USE THE TAXABLE YEAR.—In the case of any company making an election under paragraph (4), subparagraph (A) shall be applied by substituting the last day of the company's taxable year for October 31.

''(6) TREATMENT OF MARK TO MARKET GAIN.—

''(A) IN GENERAL.—For purposes of determining a regulated investment company's ordinary income, notwithstanding paragraph (1)(C), each specified mark to market provision shall be applied as if such company's taxable year ended on October 31. In the case of a company making an election under paragraph (4), the preceding sentence shall be applied by substituting the last day of the company's taxable year for October 31.

''(B) SPECIFIED MARK TO MARKET PROVISION.—For purposes of this paragraph, the term 'specified mark to market provision' means sections 1256 and 1296 and any other provision of this title (or regulations thereunder) which treats property as disposed of on the last day of the taxable year.

''(7) ELECTIVE DEFERRAL OF CERTAIN ORDINARY LOSSES.—Except as provided in regulations prescribed by the Secretary, in the case of a regulated investment company which has a taxable year other than the calendar year—

''(A) such company may elect to determine its ordinary income for the calendar year without regard to any net ordinary loss (determined without regard to specified gains and losses taken into account under paragraph (5)) which is attributable to the portion of such calendar year which is after the beginning of the taxable year which begins in such calendar year, and

''(B) any amount of net ordinary loss not taken into account for a calendar year by reason of subparagraph (A) shall be treated as arising on the 1st day of the following calendar year.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to calendar years beginning after the date of the enactment of this Act.

SEC. 403. DISTRIBUTED AMOUNT FOR EXCISE TAX PURPOSES DETERMINED ON BASIS OF TAXES PAID BY REGULATED INVESTMENT COMPANY.

(a) IN GENERAL.—Subsection (c) of section 4982 is amended by adding at the end the following new paragraph:

''(4) SPECIAL RULE FOR ESTIMATED TAX PAYMENTS.—

''(A) IN GENERAL.—In the case of a regulated investment company which elects the application of this paragraph for any calendar year—

''(i) the distributed amount with respect to such company for such calendar year shall be increased by the amount on which qualified estimated tax payments are made by such company during such calendar year, and

''(ii) the distributed amount with respect to such company for the following calendar year shall be reduced by the amount of such increase.

''(B) QUALIFIED ESTIMATED TAX PAYMENTS.—For purposes of this paragraph, the term 'qualified estimated tax payments' means, with respect to any calendar year, payments of estimated tax of a tax described in paragraph (1)(B) for any taxable year which begins (but does not end) in such calendar year.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to calendar years beginning after the date of the enactment of this Act.

SEC. 404. INCREASE IN REQUIRED DISTRIBUTION OF CAPITAL GAIN NET INCOME.

(a) IN GENERAL.—Subparagraph (B) of section 4982(b)(1) is amended by striking ''98 percent'' and inserting ''98.2 percent''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to calendar years beginning after the date of the enactment of this Act.

TITLE V—OTHER PROVISIONS

SEC. 501. REPEAL OF ASSESSABLE PENALTY WITH RESPECT TO LIABILITY FOR TAX OF REGULATED INVESTMENT COMPANIES.

(a) IN GENERAL.—Part I of subchapter B of chapter 68 is amended by striking section 6697 (and by striking the item relating to such section in the table of sections of such part).

(b) CONFORMING AMENDMENT.—Section 860 is amended by striking subsection (j).

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 502. MODIFICATION OF SALES LOAD BASIS DEFERRAL RULE FOR REGULATED INVESTMENT COMPANIES.

(a) IN GENERAL.—Subparagraph (C) of section 852(f)(1) is amended by striking ''subsequently acquires'' and inserting ''acquires, during the period beginning on the date of the disposition referred to in subparagraph (B) and ending on January 31 of the calendar year following the calendar year that includes the date of such disposition,''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to charges incurred in taxable years beginning after the date of the enactment of this Act.

SA 4745. Mr. REID (for Mr. CARPER) proposed an amendment to the bill S. 3167, to amend title 13 of the United States Code to provide for a 5-year term of office for the Director of the Census and to provide for authority and duties of the Director and Deputy Director of the Census, and for other purposes; as follows:

Beginning on page 5, strike line 7 and all that follows through page 6, line 23, and insert the following:

''(6) ADVISORY COMMITTEES.—

''(A) ADVISORY COMMITTEES GENERALLY.—

''(i) AUTHORITY TO ESTABLISH.—The Director may establish such advisory committees as the Director considers appropriate to provide advice with respect to any function of the Director.

''(ii) COMPENSATION AND EXPENSES.—Members of any advisory committee established under clause (i) shall serve without compensation, but shall be entitled to transportation expenses and per diem in lieu of subsistence in accordance with section 5703 of title 5.

''(B) TECHNOLOGY ADVISORY COMMITTEE.—

''(i) IN GENERAL.—Not later than 180 days after the date of the enactment of the Census Oversight Efficiency and Management Reform Act of 2010, the Director shall establish a technology advisory committee under subparagraph (A).

''(ii) MEMBERSHIP.—Members of the technology advisory committee shall be selected from the public, private, and academic sectors from among those who have experience in technologies and services relevant to the planning and execution of the census.

''(iii) DUTIES.—The technology advisory committee shall make recommendations to the Director and publish reports on the use of commercially available technologies and services to improve efficiencies and manage costs in the implementation of the census and census-related activities, including pilot projects.

''(7) REGULATIONS.—The Director may, in consultation with the Secretary, prescribe such rules and regulations as the Director considers necessary or appropriate to carry out the functions of the Director.

''(8) DELEGATIONS, ETC.—The Director may assign duties, and delegate, or authorize successive redelegations of, authority to act and to render decisions, to such officers and employees of the Bureau as the Director may find necessary. Within the limitations of such assignments, delegations, or redelegations, all official acts and decisions of such officers and employees shall have the same force and effect as though performed or rendered by the Director. An assignment, delegation, or redelegation under this paragraph may not take effect before the date on which notice of such assignment, delegation, or redelegation (as the case may be) is published in the Federal Register.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS AND THE COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS

Mrs. MCCASKILL. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs and the Committee on Homeland Security and Governmental Affairs be authorized to meet during the session of the Senate on December 8, 2010, at 3:30 p.m., to conduct a joint hearing entitled ''Examining the Efficiency, Stability, and Integrity of the U.S. Capital Markets.''

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

COMMITTEE ON THE JUDICIARY

Mrs. MCCASKILL. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on December 8, 2010, at 10 a.m. in SD–226 of the Dirksen Senate Office Building, to conduct an executive business meeting.

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

ORDER OF PROCEDURE

Mr. REID. Mr. President, I ask unanimous consent that the cloture vote on the motion to proceed to Calendar No. 443, S. 3992, occur at 11 a.m. tomorrow, December 9, with the time following any leader time until 11 a.m. equally divided and controlled between the leaders or their designees; that following any leader statement, Senator DURBIN be recognized for up to 10 minutes, and the Senate then resume consideration of the motion to proceed to S. 3992; that during Thursday's session, Senator BENNETT be recognized to speak for up to 20 minutes for his farewell speech and also Senator DORGAN be recognized at 2 p.m. for up to 20 minutes for his farewell speech and that Senator BUNNING be recognized for up to 30 minutes for his farewell speech.

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

REGULATED INVESTMENT COMPANY MODERNIZATION ACT OF 2010

Mr. REID. I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 640, H.R. 4337.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 4337) to amend the Internal Revenue Code of 1986 to modify certain rules applicable to regulated investment companies, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Mr. REID. I ask unanimous consent that the Bingaman substitute amendment which is at the desk be agreed to; the bill, as amended, be read three times, passed; the motion to reconsider be laid on the table; and any statements relating to this matter be printed in the RECORD.

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

The amendment (No. 4744) was agreed to.

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

The amendment was ordered to be engrossed and the bill read a third time.

The bill (H.R. 4337), as amended, was read the third time and passed.

CENSUS OVERSIGHT EFFICIENCY AND MANAGEMENT REFORM ACT OF 2010

Mr. REID. Mr. President, I ask unanimous consent to proceed to Calendar No. 647, S. 3167.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 3167) to amend title 13 of the United States Code to provide for a 5-year term of office for the Director of the Census and to provide for the authority and duties of the Director and Deputy Director of the Census, and for other purposes.

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Homeland Security and Governmental Affairs, with amendments, as follows:

(The parts of the bill intended to be stricken are shown in boldface brackets and the parts of the bill intended to be inserted are shown in Italic.)

S. 3167

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 ''Census Oversight Efficiency and Management Reform Act of 2010''.

SEC. 2. AUTHORITY AND DUTIES OF DIRECTOR AND DEPUTY DIRECTOR OF THE CENSUS.

(a) IN GENERAL.—Section 21 of the title 13, United States Code, is amended to read as follows:

''§ 21. Director of the Census; Deputy Director of the Census; authority and duties

''(a) DEFINITIONS.—As used in this section—

''(1) 'Director' means the Director of the Census;

''(2) 'Deputy Director' means the Deputy Director of the Census; and

''(3) 'function' includes any duty, obligation, power, authority, responsibility, right, privilege, activity, or program.

''(b) DIRECTOR OF THE CENSUS.—

''(1) APPOINTMENT.—

''(A) IN GENERAL.—The Bureau shall be headed by a Director of the Census, appointed by the President, by and with the advice and consent of the Senate.

''(B) QUALIFICATIONS.—Such appointment shall be made from individuals who have a demonstrated ability in [management]*managing large organizations* and experience in the collection, analysis, and use of statistical data.

''(2) GENERAL AUTHORITY AND DUTIES.—

''(A) IN GENERAL.—The Director shall report directly to the Secretary without being required to report through any other official of the Department of Commerce.

''(B) DUTIES.—The Director shall perform such duties as may be imposed upon the Director by law, regulations, or orders of the Secretary.

''(C) INDEPENDENCE OF DIRECTOR.—No officer or agency of the United States shall have any authority to require the Director to submit legislative recommendations, or testimony, or comments for review prior to the submission of such recommendations, testimony, or comments to Congress if such recommendations, testimony, or comments to Congress include a statement indicating that the views expressed therein are those of the Bureau and do not necessarily represent the views of the President.

''(3) TERM OF OFFICE.—

''(A) IN GENERAL.—The term of office of the Director shall be 5 years, and shall begin on January 1, 2012, and every fifth year thereafter. An individual may not serve more than 2 full terms as Director.

''(B) VACANCIES.—Any individual appointed to fill a vacancy in such position, occurring before the expiration of the term for which such individual's predecessor was appointed, shall be appointed for the remainder of that term. The Director may serve after the end of the Director's term until reappointed or until a successor has been appointed, but in no event longer than 1 year after the end of such term.

''(C) REMOVAL.—An individual serving as Director may be removed from office by the President. The President shall communicate in writing the reasons for any such removal to both Houses of Congress not later than [30 days] *60 days* before the removal.

''(4) FUNCTIONS.—The Director shall be responsible for the exercise of all powers and the discharge of all duties of the Bureau, and shall have authority and control over all personnel and activities thereof.

''(5) ORGANIZATION.—The Director may establish, alter, consolidate, or discontinue such organizational units or components within the Bureau as the Director considers necessary or appropriate, except that this paragraph shall not apply with respect to any unit or component provided for by law.

''(6) ADVISORY COMMITTEES.—The Director may establish advisory committees to provide advice with respect to any function of the Director. Members of any such committee shall serve without compensation, but shall be entitled to transportation expenses and per diem in lieu of subsistence in accordance with section 5703 of title 5.

''(7) REGULATIONS.—The Director may, in consultation with the Secretary, prescribe such rules and regulations as the Director considers necessary or appropriate to carry out the functions of the Director.

''(8) DELEGATIONS, ETC.—The Director may assign duties, and delegate, or authorize successive redelegations of, authority to act and to render decisions, to such officers and employees of the Bureau as the Director may find necessary. Within the limitations of such assignments, delegations, or redelegations, all official acts and decisions of such officers and employees shall have the same force and effect as though performed or rendered by the Director. An assignment, delegation, or redelegation under this paragraph may not take effect before the date on which notice of such assignment, delegation, or redelegation (as the case may be) is published in the Federal Register.

''(9) BUDGET REQUESTS.—At the time the Director submits a budget request to the Secretary for inclusion in the President's budget request for a fiscal year submitted under section 1105 of title 31, and prior to the submission of the Department of Commerce budget to the Office of Management and Budget, the Director shall provide that budget information to the Committee on Oversight and Government Reform of the House of Representatives and the Committee on Governmental Affairs of the Senate, as well as the Committees on Appropriations of the House of Representatives and the Senate. All other budget requests from the Bureau to the Secretary shall be made available to the Committees on Appropriations of the House of Representatives and the Senate.

''(10) OTHER AUTHORITIES.—

''(A) PERSONNEL.—Subject to sections 23 and 24, but notwithstanding any other provision of law, the Director, in carrying out the functions of the Director or the Bureau, may use the services of officers and other personnel in other Federal agencies, including personnel of the Armed Forces, with the consent of the head of the agency concerned.

''(B) VOLUNTARY SERVICES.—Notwithstanding section 1342 of title 31, or any other provision of law, the Director may accept and use voluntary and uncompensated services.

''(c) DEPUTY DIRECTOR.—

''(1) IN GENERAL.—There shall be in the Bureau a Deputy Director of the Census, who shall be appointed by and serve at the pleasure of the Director. The position of Deputy Director shall be a career reserved position within the meaning of section 3132(a)(8) of title 5.

''(2) FUNCTIONS.—The Deputy Director shall perform such functions as the Director shall designate.

''(3) TEMPORARY AUTHORITY TO PERFORM FUNCTIONS OF DIRECTOR.—The provisions of sections 3345 through 3349d of title 5 shall apply with respect to the office of Director. The first assistant to the office of Director is the Deputy Director for purposes of applying such provisions.''.

(b) TRANSITION RULES.—

(1) APPOINTMENT OF INITIAL DIRECTOR.—The initial Director of the Bureau of the Census shall be appointed in accordance with the provisions of section 21(b) of title 13, United States Code, as amended by subsection (a).

(2) INTERIM ROLE OF CURRENT DIRECTOR OF THE CENSUS AFTER DATE OF ENACTMENT.—If, as of January 1, 2012, the initial Director of the Bureau of the Census has not taken office, the officer serving on December 31, 2011, as Director of the Census (or Acting Director of the Census, if applicable) in the Department of Commerce—

(A) shall serve as the Director of the Bureau of the Census;

(B) shall assume the powers and duties of such Director, until the initial Director has taken office; and

(C) shall report directly to the Secretary of Commerce.

(c) CLERICAL AMENDMENT.—The item relating to section 21 in the table of sections for chapter 1 of title 13, United States Code, is amended to read as follows:

''21. Director of the Census; Deputy Director of the Census; authority and duties.''.

(d) TECHNICAL AND CONFORMING AMENDMENTS.—Not later than January 1, 2011, the Secretary of Commerce, in consultation with the Director of the Census, shall submit to each House of the Congress draft legislation containing any technical and conforming amendments to title 13, United States Code, and any other provisions which may be necessary to carry out the purposes of this Act.

SEC. 3. INTERNET RESPONSE OPTION.

Not later than 180 days after the date of the enactment of this Act, the Director of the Census, shall provide a plan to Congress on how the Bureau of the Census will test, develop, and implement an Internet response option for the 2020 Census and the American Community Survey. The plan shall include a description of how and when feasibility will be tested, the stakeholders to be consulted, when and what data will be collected, and how data will be protected.

SEC. 4. ANNUAL REPORTS.

(a) IN GENERAL.—Subchapter I of chapter 1 of title 13, United States Code, is amended by adding at the end the following new section:

''§ 17. Annual reports

''(a) Not later than the date of the submission of the President's budget request for a fiscal year under section 1105 of title 31, the Director of the Census shall submit to the appropriate congressional committees a comprehensive status report on the next decennial census, beginning with the 2020 decennial census. Each report shall include the following information:

''(1) A description of the Bureau's performance goals for each significant decennial operation, including the performance measures for each operation.

''(2) An assessment of the risks associated with each significant decennial operation, including the interrelationships between the operations and a description of relevant mitigation plans.

''(3) Detailed milestone estimates for each significant decennial operation, including estimated testing dates, and justification for any changes to milestone estimates.

''(4) Updated cost estimates for the life cycle of the decennial census, including sensitivity analysis and an explanation of significant changes in the assumptions on which such cost estimates are based.

''(5) A detailed description of all contracts over $50,000,000 entered into for each significant decennial operation, including—

''(A) any changes made to the contracts from the previous fiscal year;

''(B) justification for the changes; and

''(C) actions planned or taken to control growth in such contract costs.

''(b) For purposes of this section, the term 'significant decennial operation' includes any program or information technology related to—

''(1) the development of an accurate address list;

''(2) data collection, processing, and dissemination;

''(3) recruiting and hiring of temporary employees;

''(4) marketing, communications, and partnerships; and

''(5) coverage measurement.''.

(b) CLERICAL AMENDMENT.—The table of sections for chapter 1 of title 13, United States Code, is amended by inserting after the item relating to section 16 the following new item:

''17. Annual reports.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to budget requests for fiscal years beginning after September 30, 2010.

Mr. REID. Mr. President, I ask unanimous consent that the committee-reported amendments be considered; the Carper amendment which is at the desk be agreed to; the committee-reported amendments be agreed to; and the bill, as amended, be read a third time and passed; the motions to reconsider be laid upon the table, with no intervening action or debate, and any statements relating to this matter be printed in the RECORD.

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

The amendment (No. 4745) was agreed to, as follows:

(Purpose: To provide for the establishment of a technology advisory committee and to strike the requirement that the Director of the Census submit a budget request each year to the Secretary of Commerce for inclusion in the President's budget request for that year)

Beginning on page 5, strike line 7 and all that follows through page 6, line 23, and insert the following:

''(6) ADVISORY COMMITTEES.—

''(A) ADVISORY COMMITTEES GENERALLY.—

''(i) AUTHORITY TO ESTABLISH.—The Director may establish such advisory committees as the Director considers appropriate to provide advice with respect to any function of the Director.

''(ii) COMPENSATION AND EXPENSES.—Members of any advisory committee established under clause (i) shall serve without compensation, but shall be entitled to transportation expenses and per diem in lieu of subsistence in accordance with section 5703 of title 5.

''(B) TECHNOLOGY ADVISORY COMMITTEE.—

''(i) IN GENERAL.—Not later than 180 days after the date of the enactment of the Census Oversight Efficiency and Management Reform Act of 2010, the Director shall establish a technology advisory committee under subparagraph (A).

''(ii) MEMBERSHIP.—Members of the technology advisory committee shall be selected from the public, private, and academic sectors from among those who have experience in technologies and services relevant to the planning and execution of the census.

''(iii) DUTIES.—The technology advisory committee shall make recommendations to the Director and publish reports on the use of commercially available technologies and services to improve efficiencies and manage costs in the implementation of the census and census-related activities, including pilot projects.

''(7) REGULATIONS.—The Director may, in consultation with the Secretary, prescribe such rules and regulations as the Director considers necessary or appropriate to carry out the functions of the Director.

''(8) DELEGATIONS, ETC.—The Director may assign duties, and delegate, or authorize successive redelegations of, authority to act and to render decisions, to such officers and employees of the Bureau as the Director may find necessary. Within the limitations of such assignments, delegations, or redelegations, all official acts and decisions of such officers and employees shall have the same force and effect as though performed or rendered by the Director. An assignment, delegation, or redelegation under this paragraph may not take effect before the date on which notice of such assignment, delegation, or redelegation (as the case may be) is published in the Federal Register.

The committee amendments were agreed to.

The bill (S. 3167), as amended, was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 3167

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 ''Census Oversight Efficiency and Management Reform Act of 2010''.

SEC. 2. AUTHORITY AND DUTIES OF DIRECTOR AND DEPUTY DIRECTOR OF THE CENSUS.

(a) IN GENERAL.—Section 21 of the title 13, United States Code, is amended to read as follows:

''§ 21. Director of the Census; Deputy Director of the Census; authority and duties

''(a) DEFINITIONS.—As used in this section—

''(1) 'Director' means the Director of the Census;

''(2) 'Deputy Director' means the Deputy Director of the Census; and

''(3) 'function' includes any duty, obligation, power, authority, responsibility, right, privilege, activity, or program.

''(b) DIRECTOR OF THE CENSUS.—

''(1) APPOINTMENT.—

''(A) IN GENERAL.—The Bureau shall be headed by a Director of the Census, appointed by the President, by and with the advice and consent of the Senate.

''(B) QUALIFICATIONS.—Such appointment shall be made from individuals who have a demonstrated ability in managing large organizations and experience in the collection, analysis, and use of statistical data.

''(2) GENERAL AUTHORITY AND DUTIES.—

''(A) IN GENERAL.—The Director shall report directly to the Secretary without being required to report through any other official of the Department of Commerce.

''(B) DUTIES.—The Director shall perform such duties as may be imposed upon the Director by law, regulation, or orders of the Secretary.

''(C) INDEPENDENCE OF DIRECTOR.—No officer or agency of the United States shall have any authority to require the Director to submit legislative recommendations, or testimony, or comments for review prior to the submission of such recommendations, testimony, or comments to Congress if such recommendations, testimony, or comments to Congress include a statement indicating that the views expressed therein are those of the Bureau and do not necessarily represent the views of the President.

''(3) TERM OF OFFICE.—

''(A) IN GENERAL.—The term of office of the Director shall be 5 years, and shall begin on January 1, 2012, and every fifth year thereafter. An individual may not serve more than 2 full terms as Director.

''(B) VACANCIES.—Any individual appointed to fill a vacancy in such position, occurring before the expiration of the term for which such individual's predecessor was appointed, shall be appointed for the remainder of that term. The Director may serve after the end of the Director's term until reappointed or until a successor has been appointed, but in no event longer than 1 year after the end of such term.

''(C) REMOVAL.—An individual serving as Director may be removed from office by the President. The President shall communicate in writing the reasons for any such removal to both Houses of Congress not later than 60 days before the removal.

''(4) FUNCTIONS.—The Director shall be responsible for the exercise of all powers and the discharge of all duties of the Bureau, and shall have authority and control over all personnel and activities thereof.

''(5) ORGANIZATION.—The Director may establish, alter, consolidate, or discontinue such organizational units or components within the Bureau as the Director considers necessary or appropriate, except that this paragraph shall not apply with respect to any unit or component provided for by law.

''(6) ADVISORY COMMITTEES.—

''(A) ADVISORY COMMITTEES GENERALLY.—

''(i) AUTHORITY TO ESTABLISH.—The Director may establish such advisory committees as the Director considers appropriate to provide advice with respect to any function of the Director.

''(ii) COMPENSATION AND EXPENSES.—Members of any advisory committee established under clause (i) shall serve without compensation, but shall be entitled to transportation expenses and per diem in lieu of subsistence in accordance with section 5703 of title 5.

''(B) TECHNOLOGY ADVISORY COMMITTEE.—

''(i) IN GENERAL.—Not later than 180 days after the date of the enactment of the Census Oversight Efficiency and Management Reform Act of 2010, the Director shall establish a technology advisory committee under subparagraph (A).

''(ii) MEMBERSHIP.—Members of the technology advisory committee shall be selected from the public, private, and academic sectors from among those who have experience in technologies and services relevant to the planning and execution of the census.

''(iii) DUTIES.—The technology advisory committee shall make recommendations to the Director and publish reports on the use of commercially available technologies and services to improve efficiencies and manage costs in the implementation of the census and census-related activities, including pilot projects.

''(7) REGULATIONS.—The Director may, in consultation with the Secretary, prescribe such rules and regulations as the Director considers necessary or appropriate to carry out the functions of the Director.

''(8) DELEGATIONS, ETC.—The Director may assign duties, and delegate, or authorize successive redelegations of, authority to act and to render decisions, to such officers and employees of the Bureau as the Director may find necessary. Within the limitations of such assignments, delegations, or redelegations, all official acts and decisions of such officers and employees shall have the same force and effect as though performed or rendered by the Director. An assignment, delegation, or redelegation under this paragraph may not take effect before the date on which notice of such assignment, delegation, or redelegation (as the case may be) is published in the Federal Register.

''(9) OTHER AUTHORITIES.—

''(A) PERSONNEL.—Subject to sections 23 and 24, but notwithstanding any other provision of law, the Director, in carrying out the functions of the Director or the Bureau, may use the services of officers and other personnel in other Federal agencies, including personnel of the Armed Forces, with the consent of the head of the agency concerned.

''(B) VOLUNTARY SERVICES.—Notwithstanding section 1342 of title 31, or any other provision of law, the Director may accept and use voluntary and uncompensated services.

''(c) DEPUTY DIRECTOR.—

''(1) IN GENERAL.—There shall be in the Bureau a Deputy Director of the Census, who shall be appointed by and serve at the pleasure of the Director. The position of Deputy Director shall be a career reserved position within the meaning of section 3132(a)(8) of title 5.

''(2) FUNCTIONS.—The Deputy Director shall perform such functions as the Director shall designate.

''(3) TEMPORARY AUTHORITY TO PERFORM FUNCTIONS OF DIRECTOR.—The provisions of sections 3345 through 3349d of title 5 shall apply with respect to the office of Director. The first assistant to the office of Director is the Deputy Director for purposes of applying such provisions.''.

(b) TRANSITION RULES.—

(1) APPOINTMENT OF INITIAL DIRECTOR.—The initial Director of the Bureau of the Census shall be appointed in accordance with the provisions of section 21(b) of title 13, United States Code, as amended by subsection (a).

(2) INTERIM ROLE OF CURRENT DIRECTOR OF THE CENSUS AFTER DATE OF ENACTMENT.—If, as of January 1, 2012, the initial Director of the Bureau of the Census has not taken office, the officer serving on December 31, 2011, as Director of the Census (or Acting Director of the Census, if applicable) in the Department of Commerce—

(A) shall serve as the Director of the Bureau of the Census;

(B) shall assume the powers and duties of such Director, until the initial Director has taken office; and

(C) shall report directly to the Secretary of Commerce.

(c) CLERICAL AMENDMENT.—The item relating to section 21 in the table of sections for chapter 1 of title 13, United States Code, is amended to read as follows:

''21. Director of the Census; Deputy Director of the Census; authority and duties.''.

(d) TECHNICAL AND CONFORMING AMENDMENTS.—Not later than January 1, 2011, the Secretary of Commerce, in consultation with the Director of the Census, shall submit to each House of the Congress draft legislation containing any technical and conforming amendments to title 13, United States Code, and any other provisions which may be necessary to carry out the purposes of this Act.

SEC. 3. INTERNET RESPONSE OPTION.

Not later than 180 days after the date of the enactment of this Act, the Director of the Census, shall provide a plan to Congress on how the Bureau of the Census will test, develop, and implement an Internet response option for the 2020 Census and the American Community Survey. The plan shall include a description of how and when feasibility will be tested, the stakeholders to be consulted, when and what data will be collected, and how data will be protected.

SEC. 4. ANNUAL REPORTS.

(a) IN GENERAL.—Subchapter I of chapter 1 of title 13, United States Code, is amended by adding at the end the following new section:

''§ 17. Annual reports

''(a) Not later than the date of the submission of the President's budget request for a fiscal year under section 1105 of title 31, the Director of the Census shall submit to the appropriate congressional committees a comprehensive status report on the next decennial census, beginning with the 2020 decennial census. Each report shall include the following information:

''(1) A description of the Bureau's performance goals for each significant decennial operation, including the performance measures for each operation.

''(2) An assessment of the risks associated with each significant decennial operation, including the interrelationships between the operations and a description of relevant mitigation plans.

''(3) Detailed milestone estimates for each significant decennial operation, including estimated testing dates, and justification for any changes to milestone estimates.

''(4) Updated cost estimates for the life cycle of the decennial census, including sensitivity analysis and an explanation of significant changes in the assumptions on which such cost estimates are based.

''(5) A detailed description of all contracts over $50,000,000 entered into for each significant decennial operation, including—

''(A) any changes made to the contracts from the previous fiscal year;

''(B) justification for the changes; and

''(C) actions planned or taken to control growth in such contract costs.

''(b) For purposes of this section, the term 'significant decennial operation' includes any program or information technology related to—

''(1) the development of an accurate address list;

''(2) data collection, processing, and dissemination;

''(3) recruiting and hiring of temporary employees;

''(4) marketing, communications, and partnerships; and

''(5) coverage measurement.''.

(b) CLERICAL AMENDMENT.—The table of sections for chapter 1 of title 13, United States Code, is amended by inserting after the item relating to section 16 the following new item:

''17. Annual reports.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to budget requests for fiscal years beginning after September 30, 2010.

NATIONAL ALZHEIMER'S PROJECT ACT

Mr. REID. Mr. President, I ask unanimous consent to proceed to S. 3036.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 3036) to establish the Office of the National Alzheimer's Project.

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Health, Education, Labor, and Pensions, with an amendment to strike all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''National Alzheimer's Project Act''.

SEC. 2. THE NATIONAL ALZHEIMER'S PROJECT.

(a) DEFINITION OF ALZHEIMER'S.—In this Act, the term ''Alzheimer's'' means Alzheimer's disease and related dementias.

(b) ESTABLISHMENT.—There is established in the Office of the Secretary of Health and Human Services the National Alzheimer's Project (referred to in this Act as the ''Project'').

(c) PURPOSE OF THE PROJECT.—The Secretary of Health and Human Services, or the Secretary's designee, shall—

(1) be responsible for the creation and maintenance of an integrated national plan to overcome Alzheimer's;

(2) provide information and coordination of Alzheimer's research and services across all Federal agencies;

(3) accelerate the development of treatments that would prevent, halt, or reverse the course of Alzheimer's;

(4) improve the—

(A) early diagnosis of Alzheimer's disease; and

(B) coordination of the care and treatment of citizens with Alzheimer's;

(5) ensure the inclusion of ethnic and racial populations at higher risk for Alzheimer's or least likely to receive care, in clinical, research, and service efforts with the purpose of decreasing health disparities in Alzheimer's; and

(6) coordinate with international bodies to integrate and inform the fight against Alzheimer's globally.

(d) DUTIES OF THE SECRETARY.—

(1) IN GENERAL.—The Secretary of Health and Human Services, or the Secretary's designee, shall—

(A) oversee the creation and updating of the national plan described in paragraph (2); and

(B) use discretionary authority to evaluate all Federal programs around Alzheimer's, including budget requests and approvals.

(2) NATIONAL PLAN.—The Secretary of Health and Human Services, or the Secretary's designee, shall carry out an annual assessment of the Nation's progress in preparing for the escalating burden of Alzheimer's, including both implementation steps and recommendations for priority actions based on the assessment.

(e) ADVISORY COUNCIL.—

(1) IN GENERAL.—There is established an Advisory Council on Alzheimer's Research, Care, and Services (referred to in this Act as the ''Advisory Council'').

(2) MEMBERSHIP.—

(A) FEDERAL MEMBERS.—The Advisory Council shall be comprised of the following experts:

(i) A designee of the Centers for Disease Control and Prevention.

(ii) A designee of the Administration on Aging.

(iii) A designee of the Centers for Medicare & Medicaid Services.

(iv) A designee of the Indian Health Service.

(v) A designee of the Office of the Director of the National Institutes of Health.

(vi) The Surgeon General.

(vii) A designee of the National Science Foundation.

(viii) A designee of the Department of Veterans Affairs.

(ix) A designee of the Food and Drug Administration.

(x) A designee of the Agency for Healthcare Research and Quality.

(B) NON-FEDERAL MEMBERS.—In addition to the members outlined in subparagraph (A), the Advisory Council shall include 12 expert members from outside the Federal Government, which shall include—

(i) 2 Alzheimer's patient advocates;

(ii) 2 Alzheimer's caregivers;

(iii) 2 health care providers;

(iv) 2 representatives of State health departments;

(v) 2 researchers with Alzheimer's-related expertise in basic, translational, clinical, or drug development science; and

(vi) 2 voluntary health association representatives, including a national Alzheimer's disease organization that has demonstrated experience in research, care, and patient services, and a State-based advocacy organization that provides services to families and professionals, including information and referral, support groups, care consultation, education, and safety services.

(3) MEETINGS.—The Advisory Council shall meet quarterly and such meetings shall be open to the public.

(4) ADVICE.—The Advisory Council shall advise the Secretary of Health and Human Services, or the Secretary's designee.

(5) ANNUAL REPORT.—The Advisory Council shall provide to the Secretary of Health and Human Services, or the Secretary's designee and Congress—

(A) an initial evaluation of all federally funded efforts in Alzheimer's research, clinical care, and institutional-, home-, and community-based programs and their outcomes;

(B) initial recommendations for priority actions to expand, eliminate, coordinate, or condense programs based on the program's performance, mission, and purpose;

(C) initial recommendations to—

(i) reduce the financial impact of Alzheimer's on—

(I) Medicare and other federally funded programs; and

(II) families living with Alzheimer's disease; and

(ii) improve health outcomes; and

(D) annually thereafter, an evaluation of the implementation, including outcomes, of the recommendations, including priorities if necessary, through an updated national plan under subsection (d)(2).

(6) TERMINATION.—The Advisory Council shall terminate on December 31, 2025.

(f) DATA SHARING.—Agencies both within the Department of Health and Human Services and outside of the Department that have data relating to Alzheimer's shall share such data with the Secretary of Health and Human Services, or the Secretary's designee, to enable the Secretary, or the Secretary's designee, to complete the report described in subsection (g).

(g) ANNUAL REPORT.—The Secretary of Health and Human Services, or the Secretary's designee, shall submit to Congress—

(1) an annual report that includes an evaluation of all federally funded efforts in Alzheimer's research, clinical care, and institutional-, home-, and community-based programs and their outcomes;

(2) an evaluation of all federally funded programs based on program performance, mission, and purpose related to Alzheimer's disease;

(3) recommendations for—

(A) priority actions based on the evaluation conducted by the Secretary and the Advisory Council to—

(i) reduce the financial impact of Alzheimer's on—

(I) Medicare and other federally funded programs; and

(II) families living with Alzheimer's disease; and

(ii) improve health outcomes;

(B) implementation steps; and

(C) priority actions to improve the prevention, diagnosis, treatment, care, institutional-, home-, and community-based programs of Alzheimer's disease for individuals with Alzheimer's disease and their caregivers; and

(4) an annually updated national plan.

(h) SUNSET.—The Project shall expire on December 31, 2025.

Amend the title so as to read: ''A bill to establish the National Alzheimer's Project.''.

Mr. REID. Mr. President, I ask unanimous consent that the committee-reported substitute amendment be agreed to; the bill, as amended, be read a third time and passed; the committee-reported title amendment be agreed to; the motions to reconsider be laid upon the table, with no intervening action or debate, and any statements relating to this matter be printed in the RECORD.

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

The committee amendment in the nature of a substitute, was agreed to.

The bill (S. 3036), as amended, was ordered to be engrossed for a third reading, was read the third time, and passed.

The title was amended so as to read: ''A bill to establish the National Alzheimer's Project.''

RECOGNIZING THE 15TH ANNIVERSARY OF THE DAYTON PEACE ACCORDS

Mr. REID. I ask unanimous consent to proceed to S. Res. 697.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 697) recognizing the 15th anniversary of the Dayton Peace Accords.

There being no objection, the Senate proceeded to consider the resolution.

Mr. REID. I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motions to reconsider be laid upon the table, with no intervening action or debate, and any statements relating to this matter be printed in the RECORD.

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

The resolution (S. Res. 697) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 697

Whereas on December 14, 1995, the Dayton Peace Accords established peace and ended the war on the Balkan Peninsula in which more than 2,000,000 people were displaced and thousands were killed;

Whereas peace treaty negotiations began November 1, 1995, at Wright-Patterson Air Force Base in Dayton, Ohio, and concluded there on November 21, 1995, when Bosnia and Herzegovina, Croatia, and Serbia agreed to settle all war conflicts;

Whereas after 21 days of negotiations, the peace treaty negotiations successfully concluded with a peace treaty that was accepted by all parties;

Whereas the Dayton, Ohio, community provided outstanding security during the peace treaty negotiations;

Whereas the conclusion of the Dayton Peace Accords was a successful effort of the North Atlantic Treaty Organization led by the United States, with outstanding cooperation from the Russian Federation, Germany, France, and the United Kingdom;

Whereas the Dayton Peace Accords were the result of, and showed the success of, strong joint North Atlantic Treaty Organization efforts to promote and establish peace, security, and prosperity;

Whereas the signatories to the Dayton Peace Accords made a commitment to fully respect human rights and the rights of refugees and displaced persons;

Whereas the Dayton Peace Accords transformed Bosnia and Herzegovina from a country mired in a war based on ethnic and religious differences into a country engaged in an intense, but peaceful, struggle over the manner by which to form an independent and stable country;

Whereas the United States Agency for International Development and other bilateral and multilateral agencies and organizations made large investments to build a strong and independent media in Croatia, Serbia, and Bosnia and Herzegovina;

Whereas the Dayton International Peace Museum honors the Dayton Peace Accords and offers nonpartisan educational programs and exhibitions featuring the themes of nonviolent conflict resolution, social justice, international relations, and peace;

Whereas the people of the State of Ohio and the Dayton region facilitated and strongly supported the implementation of the Dayton Peace Accords, as well as promoted the peaceful democratization of the deeply divided country of Bosnia and Herzegovina;

Whereas stability and prosperity were fostered by the State of Ohio through the establishment of an exemplary relationship between the Ohio National Guard and the Armed Forces of Serbia;

Whereas the Dayton Literary Peace Prize, established in 2006, remains the only literary peace price in the United States and follows the legacy of the 1995 Dayton Peace Accords by acknowledging writers who advance peace through literature;

Whereas the city of Dayton and the city of Sarajevo have built a solid relationship as Sister Cities, and many other organizations in the region, such as the University of Dayton and the Friendship Force, have built strong relationships with the people of Bosnia and Herzegovina through programs and exchanges; and

Whereas while progress remains to be made in refining the governance structures of Bosnia and Herzegovina, the Dayton Peace Accords successfully established peace, restored human dignity, and laid the foundation for future progress in Bosnia and Herzegovina: Now, therefore, be it

Resolved, That the Senate—

(1) recognizes the 15th anniversary of the Dayton Peace Accords;

(2) acknowledges the challenges Bosnia and Herzegovina still face and commends the socioeconomic and political progress that is being made in Bosnia and Herzegovina;

(3) encourages the Government of Bosnia and Herzegovina to adhere to the membership requirements of the North Atlantic Treaty Organization so that Bosnia and Herzegovina may join the alliance without delay;

(4) encourages the further integration and cooperation of European countries with the goal of establishing peace and economic prosperity for all of the people of Europe;

(5) renews the commitment of the United States to support the people of Bosnia and Herzegovina;

(6) urges the continuation of constitutional reforms, market-based economic growth, and improved dialogue between the people of Bosnia and Herzegovina and the elected Government of Bosnia and Herzegovina; and

(7) encourages the United States Air Force to take appropriate measures to provide historical interpretation of the site of the Dayton Peace Accords to educate the public on the historical significance of the Dayton Peace Accords and the importance of negotiation in world peace.

PRINTING OF TRIBUTES TO RETIRING SENATORS

Mr. REID. Mr. President, I ask unanimous consent that there be printed as a Senate document a compilation of materials from the CONGRESSIONAL RECORD in tribute to retiring Members of the 111th Congress, and that Members have until Thursday, December 16, to submit such tributes.

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

APPOINTMENTS

The PRESIDING OFFICER. The Chair, on behalf of the President pro tempore, pursuant to Public Law 106–398, as amended by Public Law 108–7, and upon the recommendation of the Republican leader, in consultation with the ranking members of the Senate Committee on Armed Services and the Senate Committee on Finance, reappoints the following individuals to the United States-China Economic Security Review Commission: Robin Cleveland of Virginia for a term expiring December 31, 2012 and Dennis C. Shea of Virginia for a term expiring December 31, 2012.

The Chair, on behalf of the President pro tempore, pursuant to Public Law

106–398, as amended by Public Law 108–7, and upon the recommendation of the Majority Leader, in consultation with the Chairmen of the Senate Committee on Armed Services and the Senate Committee on Finance, appoints the following individual to the United States-China Economic Security Review Commission: C. Richard D'Amato of Maryland for a term beginning January 1, 2011 and expiring December 31, 2012 vice Peter Videnieks of Virginia.

ORDERS FOR THURSDAY, DECEMBER 9, 2010

Mr. REID. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 9:30 a.m. on Thursday, December 9; that following the prayer and the pledge, the Journal of proceedings be approved to date, the morning hour be deemed to have expired, and the time for the two leaders be reserved for their use later in the day; that following any leader remarks, the Senate resume consideration of the motion to proceed to S. 3992, the DREAM Act, as provided under a previous order.

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

PROGRAM

Mr. REID. Mr. President, at approximately 11 a.m., the Senate will proceed to a series of up to three rollcall votes. The first vote will be on the motion to invoke cloture on the motion to proceed to the DREAM Act.

If cloture is not invoked, the Senate would proceed to vote on the motion to invoke cloture on the motion to proceed to H.R. 847, the 9/11 health compensation bill.

If cloture is not invoked, I may reconsider the failed cloture vote on the motion to proceed to the Department of Defense authorization bill, S. 3454.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. REID. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that it adjourn under the previous order.

There being no objection, the Senate, at 7:09 p.m., adjourned until Thursday, December 9, 2010, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate:

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

ALBERT J. BEVERIDGE III, OF THE DISTRICT OF COLUMBIA, TO BE A MEMBER OF THE NATIONAL COUNCIL ON THE HUMANITIES FOR A TERM EXPIRING JANUARY 26, 2016, VICE JAMES DAVISON HUNTER, TERM EXPIRED.

CONSTANCE M. CARROLL, OF CALIFORNIA, TO BE A MEMBER OF THE NATIONAL COUNCIL ON THE HUMANITIES FOR A TERM EXPIRING JANUARY 26, 2016, VICE TAMAR JACOBY, TERM EXPIRED.

CATHY M. DAVIDSON, OF NORTH CAROLINA, TO BE A MEMBER OF THE NATIONAL COUNCIL ON THE HUMANITIES FOR A TERM EXPIRING JANUARY 26, 2016, VICE MARVIN BAILEY SCOTT, TERM EXPIRED.

IN THE ARMY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

MAJ. GEN. HOWARD B. BROMBERG

THE FOLLOWING ARMY NATIONAL GUARD OF THE UNITED STATES OFFICERS FOR APPOINTMENT IN THE RESERVE OF THE ARMY TO THE GRADES INDICATED UNDER TITLE 10, U.S.C., SECTIONS 12203 AND 12211:

To be major general

BRIGADIER GENERAL GREGORY W. BATTS
BRIGADIER GENERAL BRENT M. BOYLES
BRIGADIER GENERAL JEFFERSON S. BURTON
BRIGADIER GENERAL LAWRENCE E. DUDNEY, JR.
BRIGADIER GENERAL BURTON K. FRANCISCO
BRIGADIER GENERAL CHARLES H. GAILES, JR.
BRIGADIER GENERAL GARY M. HARA
BRIGADIER GENERAL TIMOTHY J. KADAVY
BRIGADIER GENERAL PATRICK A. MURPHY
BRIGADIER GENERAL TIMOTHY E. ORR
BRIGADIER GENERAL DAVID C. PETERSEN

To be brigadier general

COLONEL JERRY R. ACTON, JR.
COLONEL DALLEN S. ATACK
COLONEL JAMES P. BEGLEY III
COLONEL ALAN J. BUTSON
COLONEL WALTER E. FOUNTAIN
COLONEL RICHARD J. GALLANT
COLONEL ALBERTO C. GONZALEZ
COLONEL JOHNNY H. ISAAK
COLONEL GREGORY L. KENNEDY
COLONEL ARTHUR J. LOGAN
COLONEL NEAL G. LOIDOLT
COLONEL JEFFREY P. MARLETTE
COLONEL TED MARTINELL
COLONEL EDWARD R. MORGAN
COLONEL MICHAEL D. NAVRKAL
COLONEL LEESA J. PAPIER
COLONEL KENNETH L. REINER
COLONEL SEAN A. RYAN
COLONEL KENNETH A. SANCHEZ
COLONEL STEVEN T. SCOTT
COLONEL WILLIAM L. STOPPEL
COLONEL LEE E. TAFANELLI
COLONEL KEITH Y. TAMASHIRO
COLONEL GUY E. THOMAS
COLONEL NEIL H. TOLLEY
COLONEL DAVID S. VISSER
COLONEL MARIANNE E. WATSON
COLONEL MARTHA N. WONG
COLONEL ANTHONY WOODS

IN THE NAVY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be vice admiral

VICE ADM. RICHARD W. HUNT

IN THE AIR FORCE

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES AIR FORCE UNDER TITLE 10, U.S.C., SECTION 624:

To be major

JESSICA L. ABBOTT
ELIZABETH L. ABDALLA
KARLA E. ADAMS
KRISTIN D. ADAMS
THOMAS A. ADAMS
ANTHONY J. AGBAY, JR.
MICHAEL A. AKERLEY
GUSTAVE N. ALBERTI
SHELLEY L. ALDRICH
CHRISTOPHER L. ALLAM
FRANCO ALVAREZ III
GEOFFREY A. ANDERSON
IAN S. ANDERSON
DAVID M. ARNER
ALVI A. AZAD
CHRISTOPHER E. BACKUS
AMANDA H. BAILEY
BRIAN C. BANE
MICHAEL J. BARKER
JOANNE N. BARLIN
ANDREW R. BARNETT
ERIN S. BARTH
DANIEL E. BELZ
CODY J. BENTHIN
AMIT A. BHATT
LANCE M. BLACK
MICHAEL A. BLAIR
PETER J. BLATZ
MARC N. BOGGY
CHARLES W. BORDERS III
THOMAS E. BORSARI
ADAM W. BOSTICK
THOMAS W. BOWDEN
ROBERT O. BRADY
BRENT R. BRIMHALL
KENT T. BROBERG
CLIFFORD W. BROOKS III
MICHAEL B. BROUGH
LAUREN A. BUCK
PATRICK E. BULL
GABRIEL E. BURKHARDT
JASON CAPRA
MICHAEL D. CARLETTI
AARON M. CARTER
KIMBERLY D. CARTER
JENNIFER G. CHANG
NICOLE CHAPPELL
JOSEPH G. COLES
NOEL R. COLLS
DANIEL B. COX
DUSTIN A. CREECH
HOWARD C. CRISP II
EMILY M. CULLINEY
MICHAEL G. DANEKAS
ELIZABETH A. DAVID
COURTNEY A. DAWLEY
MARIA D. DEARMAN
THOMAS R. DEGRAFF III
WILFRED P. DELACRUZ
CHRISTINE M. DENCH
SCOTT A. DEPAUL
SUZANNE DEPAULO
ADAM K. DERRICKSON
ROBERT M. DEWITT
MICHAEL A. DIBARTOLO
SCOTT D. DICKSON
KIERON M. DILLINGHAM
MIRIAM C. DINATALE
STEVEN S. D. DOSHI
GEOFFREY P. DOUGLAS
MARY B. DOYLE
GREGORY N. DUNN
JOSHUA L. DURHAM
RYAN E. EARNEST
LAINA J. ECKARD
ALLEN J. ECKHOFF
CHAD R. EDWARDS
SALLY R. EILERMAN
SCOTT A. EISENHUTH
STEVEN L. ELLIS
TORU ENDO
JOHN A. ENIS
GREGORY A. FELDPAUSCH
CHRISTOPHER L. FILLMORE
RYAN P. FINNAN
MATTHEW S. FISHER
HARRIETTE KATE FLATHER
MEGHAN S. FLEMMONS
ADAM C. FLOOD
GRETCHEN N. FOLEY
AARON S. FRASER
ROBERT A. FREEMAN
REBECCA A. FRYE
BRIAN S. FURUKAWA
SHANNON GAFFNEY
JOANNA M. GALATI
MICHAEL L. GARDNER
BRIAN J. GAVITT
CHRISTINA M. GOBEN
ADAM G. GORBERG
JESSE D. GORLEY
RYAN C. GOUGH
JEREMY J. GRANGER
SCOTT M. GRAYNER
EMILY ANN GREEN
LAYNE B. GREEN
MICHAEL A. GREENE
MATTHEW C. GUMMERSON
BARBARA L. GWINN
PAUL F. HAGGERTY
TIMOTHY L. HALPIN
STEFAN C. HAMELIN
MICHELLE M. HARRIS
DANIEL R. HATCHER
ASHRAF HAWARI
NATALIE M. HECHT BALDAUFF
TONYA BERNELL HENDERSON
JOEL P. HERRINGTON
LAUREN PATRICIA G. HERRMANN
MINH Q. HO
SUSAN L. HOBERNICHT
BRYAN P. HOOKS
VALERIE C. HOSTETLER
MATTHEW G. HOYT
RICHARD E. HOYT
ALLISON CASEY HUDSON
JEREMY M. HUFF
RHOME L. HUGHES
STEPHANIE LORRAINN ILLANES
JORDAN L. INOUYE
JOANNA M. JACKSON
ANGELA S. JENNY
JEREMY A. JENSEN
MICAELA A. JETT
PATRICK D. JEWELL
RONALD L. JONES
JON J. JUHASZ
MICHELLE M. JURKONIE
BELINDA LEE KELLY
ZACKARY J. KENT
DANIEL S. KIM
JOSEPH M. KUEBKER
MICHAEL S. LAIDLAW
SETH W. LAMBERT
NICHOLAS A. LANCIA
MARIA K. LAPLANT
TIMOTHY I. LAWVER
JEFFREY T. LEARY
AARON D. LEWIS
CHRISTOPHER J. LINDSHIELD
EMILLIA C. LLOYD
MARK A. LOPEZ
GIOVANNI E. LORENZ
JESSICA A. LOTRIDGE
THOMAS W. MAHONEY
MATTHEW C. MAI
MARIBEL MALDONADO
ANDREW S. MALIN
MASON W. MANDY
COURTNEY L. MAPES
OLGA MARAT
DONALD J. MARTIN

WILMONT G. MARTIN
ANNA SCHISSEL MASTERS
STEPHANIE D. MATHEW
TOKUNBO J. MATTHEWS
ANDREW K. MATTHIES
LANCE R. MCADAMS
CARRIE L. MCBEECOOKE
EDWARD T. MCCANN
CLAIRE H. MCCARTHY
SEAN C. MCCARTHY
SCOTT B. MCCUSKER
ROBERT J. MCGILL
MATTHEW J. MCHALE
MARCENE R. MCVAY
LUKE R. MICHELS
BETHANY M. MIKLES
JOHN EMMET MILES
JOSHUA P. MILLER
SPENCER O. MILLER
DEANA L. MITCHELL
CHRISTOPHER S. MONNIKENDAM
BRIAN L. MONTENEGRO
BENJAMIN D. MORROW
D. KILEY MORTENSEN
DAVID A. MOSTELLER
HANNAH G. MOUSSA
KHAYANGA S. NAMASAKA
JAVED M. NASIR
AUSTIN T. NELSON
BRIAN E. NEUBAUER
MARCUS C. NEUFFER
JONATHAN W. NEWBERRY
TRAVIS R. NEWBERRY
LARISSA M. NEWMAN
PATRICK L. NGUYEN
ADAM F. NICHOLSON
KIMBERLY N. NICOLL
CLIFTON M. NOWELL
MANUEL A. NUNEZ
MEGHAN C. OBRYAN
MATTHEW E. OCKANDER
MICHAEL S. OERTLY
DAVID J. OETTEL
BERNARD O. OGON
JON R. OLSON
ERNEST T. ONEAL
GEOFFREY J. ORAVEC
TIFFANY J. OWENS
ELDON G. PALMER
AASTA R. PEDERSEN
ADRIENNE E. PERFILIO
JOHN R. PETERSON
PETER H. PHAN
STACEY T. PHAN
MONICA LYNN PIERCE WYSONG
KEVIN P. PIERONI
ALICIA K. PLUMMER
ANDREA M. PLUMMER
LUKE H. PORSI
TROY M. PUCKETT
JOSEPH W. PUGH
CLAYTON J. RABENS
MICHAEL L. RAWLINS
BEVERLY G. REED
ROWENA M. REYES
ELLIOT S. RINZLER
CANDACE M. RIPPERDA
DAVID S. ROBINSON
ANDREW J. ROHRER
JAIME ROJAS
DAVID M. ROSE
JAMES N. SARASUA
JEREL D. SCARBERRY
JUSTIN L. SCHILZ
BRETT E. SCHNEIDER
NICHOLAS E. SEELIGER
CHRISTOPHER O. SEGURA
SEAN C. SELIG
ERIC R. SHIVES
HAVYN M. SKORUPAN
STACY KING SLAT
JEREMY T. SMITH
DEREK M. SORENSEN
RICHARD O. SPEAKMAN
JEFFREY S. ST AMANT
GREGORY A. STANCEL
JON E. STANDLEY
MICHAEL J. STATTON
IAN J. STEWART
NATHAN S. SUMNER
JONATHAN A. SUNKIN
RYAN W. SWOPE
WESLEY W. TAFT
NATASCHA MINIDIS TAVALONE
COLE R. TAYLOR
CHRISTOPHER M. TESSIER
KIRSTIN T. THODE
ALICIA W. THOMPSON
MICHAEL C. TOMPKINS
LESLIE SUSAN S. TOURANGEAU
NADEGE T. TOUZIN
GEORGE A. TRIPP
ANTHONY L. TRUONG
JUSTIN J. UPP
NICHOLAS J. VERNETTI
CHRISTINE D. VO
CHRISTOPHER N. VOJTA
LESLIE R. VOJTA
GENEVIEVE H. VON THESLING
EVE R. WADZINSKI
ERIN M. WEEDEN
GARY M. WEISSENFLUH
JASON M. WEST
KATRINA N. WHERRY
SEAN P. WHERRY
MATTHEW T. WILDE
MICAH D. WILL
BRADLEY R. WILLIAMS
GREGORY J. WILLIAMS
MELISSA L. WILLIAMS
ERIN C. WINKLER
RYAN P. WIPPLER
BRIAN L. WITHERS
HEATH D. WRIGHT
ANDREW J. WYNN

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES AIR FORCE UNDER TITLE 10, U.S.C., SECTION 624:

To be lieutenant colonel

EDWARD R. ANDERSON III
PETER I. ANDERSON
KAREN M. AYOTTE
MEHDI AZADI
CLAY M. BALDWIN
JOSEPH R. BEARD IV
ADELLE L. BELISLE
JOHN K. BINI
JEREMY S. BRAGDON
PATRICK S. BRANNAN
LISA D. BROSTROM
JOHN S. BRUUN
PHIET T. BUI
GEORGE J. BUSE
WILLIAM H. CANN
JENNIFER C. CHOW
ALLISON A. COGAR
ROBERTO J. COLON
CHRISTOPHER A. COOP
TIMOTHY K. CRAGUN
JAMES A. CRIDER
ELVIN J. CRUZZENO
KAREN I. DACEY
LAURIE C. DAVIGNON
STEPHANIE M. DAVIS
RONALD S. DAY
SHANE D. DIECKMAN
LORI R. DISEATI
JOSEF F. DOENGES
GLENN DONNELLY
YASHIKA T. DOOLEY
JOHN R. DORSCH
KRISTI L. DREYER
JOSEPH J. DUBOSE
CLARENCE M. DUNAGAN IV
ROBERT L. ELLER
PATRICK M. ELLISON
ROBERT L. ELWOOD
BRIAN M. FAUX
SUSAN P. FEDERINKO
JOHN F. FREILER
RICHARD J. GERBER
RUTH A. GERMAN
NIRAJ GOVIL
JOSEPH T. GOWER
CHARLES E. GREESON
DANIEL D. GRUBER
ABEL GUERRA
DAVID A. HARDY
CINDY LOU HARRIS
JOHN M. HATFIELD
MICHAEL B. HOGAN
ALLEN D. HOLDER
DAVID L. HUANG
DUSTIN G. HUNTZINGER
WALTER N. INGRAM
KIRK E. JENSEN
JANELLE D. JONES
KAUSTUBH G. JOSHI
YEKATERINA KARPITSKAYA
COLLEEN M. KERSGARD
CHRISTOPHER R. KIELING
ALEXANDER P. S. KIM
HENRY J. KLEIN
CHRISTOPHER J. KOEBBE
MARIA R. J. KOSTUR
STEVEN A. KOZIOL
JULIO R. LAIRET
JEFFREY M. LAMMERS
GREGORY D. LANGAS
KERRY P. LATHAM
DOUGLAS A. LEACH
ALARIC C. LEBARON
PAUL E. LEWIS III
MONICA M. LOVASZ
JUSTIN Q. LY
GREGORY J. MALONE
JON KYLE MARTI
GREGG G. MARTYAK
MICHAEL W. MATCHETTE
MICHAEL J. MCBETH
COLLEEN M. MCBRATNEY
JONATHAN W. MCCLAIN
DEIRDRE M. MCCULLOUGH
JETT J. MERCER
PETER G. MICHAELSON
LISA D. MIHORA
JASON C. MILLER
ALI D. MORRELLBALANON
JASON L. MUSSER
CHRISTOPHER J. NAGY
XAVIER A. NGUYEN
SEAN P. OBRIEN
WILLIAM T. OBRIEN
JACOB B. OLDHAM
MARIBEL B. ORANTE MANGILOG
VICTOR L. ORTIZ ORTIZ
PATRICK M. OSBORN
LOUIS J. PAPA
AMY L. PARKER
MICHAEL W. PEELLE
RICHARD M. PETERSON
KULLADA O. PICHAKRON
TARA N. PIECH
JEANNETTE E. PRENTICE
CHARLA M. QUAYLE
ALEXIES RAMIREZ
JEFFREY MICHAEL RENGEL
CHRISTOPHER O. RESTAD
KEYAN D. RILEY
JOSHUA J. SACHA
FRANK M. SAMARIN
ROBERT SARLAY, JR.
SIRIKANYA SASTRI
SIRAJ A. SAYEED
RICHARD J. SERKOWSKI
CECILI K. SESSIONS
FAREED A. SHEIKH
LUCAS M. SHELDON
DARREN L. SHIRLEY
JEFFREY A. SIMERVILLE
DAVID J. SIMMONS
LUKE B. SIMONET
WILLIAM K. SKINNER
JOSEPH C. SKY
MARK A. SLABAUGH
JEFFREY A. SODERGREN
CHRISTINE E. STAHL
THOMAS W. STAMP
SHAYNE C. STOKES
ADRIAN K. STULL
KEITH A. SWARTZ
CHRISTINE E. THOLEN
ADRIANNE THOMPSON
JILL M. TIA
RODNEY E. TODD
DMITRY TUDER
BRYAN J. UNSELL
MEGUMI M. VOGT
PENNY J. VROMAN
DAVID J. WALICK
SHAKA M. WALKER
ERIK K. WEITZEL
DARREN E. WHITTEMORE
DERRICK B. WILLSEY
ANDREW L. WINGE
JOHN W. WOLTZ
ROBERT B. WOOLLEY
MICHELLE M. WUESTE
CHRISTOPHER K. WYATT
ASSY YACOUB
EDWARD K. YI
ANTHONY I. ZARKA
DAVID H. ZONIES

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES AIR FORCE UNDER TITLE 10, U.S.C., SECTION 624:

To be major

MICHAEL J. ALFARO
BRADFORD C. ALLEN
MERRILL L. ALLEY
SHELRETHIA BATTLE SIATITA
WONIL W. CHONG
BRIAN M. CLEMENT
BRANDON J. CUMMINS
HEATHER K. DELONEY
MICHAEL G. DIFELICE
JUSTIN L. DRAB
MARGARET S. ENOCH
ROBERT E. FULLER
CHAD A. GUSTAFSON
RICHARD K. HOWARD
EMILY TATE IBARRA
CLAY J. JENSEN, JR.
DANA A. JENSEN
AMY SCHULTZ KAUVAR
PAUL H. KIM
HUMAIRA F. MASOOD
TEQUILLA N. MCGAHEE
KIBROM T. MEHARI
AUDRA D. MYERS
MICHAEL G. NEILSON
TENESHIA S. NELSON
DAN NGUYEN
CHRISTOPHER S. NUTTALL
MATHEW G. PALMER
ZACHARY E. PERRY
PATRICK B. RICKHEIM
WILLIAM D. ROBINSON, JR.
CHRISTOPHER B. SAMPAIR
DAVID F. SERVELLO
ZOYA SKY
PAUL A. SMITH
RIAN W. SUIHKONEN
TAD C. THOLSTROM
DARNELL R. THOMAS
TIBEBU M. TSEGGA
JOSHUA A. VESS
JAMES A. WEALLEANS
DAVID E. WEBB
BRYAN M. WILSON
SARA M. WILSON

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES AIR FORCE UNDER TITLE 10, U.S.C., SECTION 624:

To be lieutenant colonel

COREY R. ANDERSON
RICHARD A. BUCK
MAURICIO C. CAROTA
BRETT M. CHUNG
MICHAEL J. CHUNG
JOHN C. DAVIS
BRENDAN T. FARRELL
SAMUEL L. HAYES
MARK W. HENDERSON
JOE W. HOWARD

DAVID E. KLINGMAN
KURTIS G. KOBES
ELIZABETH N. KUTNER
JERRY L. LEONARD
WEN LIEN
TRENT W. LISTELLO
JAMIE J. MORRIS
RACHELLE M. NOWLIN
BRIAN W. PENTON
TERESA E. REEVES
SONG B. RHIM
LEONARDO M. RIOS ANDERSEN
STEVEN F. ROBERTSON, JR.
ANDREW J. STOY
SON X. VU

IN THE NAVY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

To be lieutenant commander

BRIAN L. BEATTY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE GRADE INDICATED IN THE REGULAR NAVY UNDER TITLE 10, U.S.C., SECTION 531:

To be commander

JON C. CANNON

IN THE MARINE CORPS

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES MARINE CORPS UNDER TITLE 10, U.S.C., SECTION 624:

To be colonel

JOE H. ADKINS, JR.
JOHN L. ALBERS
TRAY J. ARDESE
JON M. AYTES
JAMES M. BAKER
ANTHONY S. BARNES
SCOTT F. BENEDICT
PAUL F. BERTHOLF
ANTHONY J. BIANCA
STEFAN E. BIEN
JASON Q. BOHM
WILLIAM J. BOWERS
MARK T. BRINKMAN
THOMAS A. BRUNO
GLEN G. BUTLER
CHRISTIAN G. CABANISS
MICHEL C. CANCELLIER
JOHN J. CARROLL, JR.
MITCHELL E. CASSELL
BRIAN W. CAVANAUGH
CLIFFORD D. CHEN
JEFFREY S. CHESTNEY
JAMES D. CHRISTMAS
VINCENT E. CLARK
SHAWN J. COAKLEY
SHANE B. CONRAD
MATTHEW H. COOPER
MATTHEW R. CRABILL
CHARLES M. CROMWELL
ROBERT D. CURTIS
DONALD J. DAVIS
MATTHEW A. DAY
TODD S. DESGROSSEILLIERS
JEFFREY J. DILL
TODD S. ECKLOFF
KATHERINE J. ESTES
JOHN P. FARNAM
ANTHONY A. FERENCE
ROBERT A. FIFER
JOHN S. FITZPATRICK
MICHAEL D. FLYNN
TODD D. FORD
JAMES S. FRAMPTON
TYSON B. GEISENDORFF
SEAN D. GIBSON
GREGORY G. GILLETTE
FLAY R. GOODWIN
GERALD C. GRAHAM
VERNON L. GRAHAM
STEVEN J. GRASS
THOMAS E. GRATTAN III
JESSE L. GRUTER
GLENN R. GUENTHER
WAYNE C. HARRISON
RYAN P. HERITAGE
JAMES B. HIGGINS, JR.
JONATHAN W. HITESMAN
TODD A. HOLMQUIST
CHRISTOPHER W. HUGHES
JAMES T. JENKINS II
JEFFREY J. JOHNSON
PAUL H. JOHNSON III
RICHARD E. JORDAN
GARY F. KEIM
BRIAN M. KENNEDY
GLENN M. KLASSA
ERIC R. KLEIS
TIMOTHY A. KOLB
ANDREW J. KOSTIC, JR.
ERIK B. KRAFT
DANIEL T. LATHROP
KEVIN J. LEE
STEPHEN E. LISZEWSKI
TODD W. LYONS
ARTURO J. MADRIL
BRIAN L. MAGNUSON
JOHN A. MANNLE
ANTHONY J. MANUEL
GREGORY R. MARTIN
RICARDO MARTINEZ
DOUGLAS S. MAYER
ROBERT E. MCCARTHY III
DEBORAH M. MCCONNELL
BRANDON D. MCGOWAN
ARCHIBALD M. MCLELLAN
CHRISTOPHER A. MCPHILLIPS
JOHN S. MEADE
JOHN P. MEE
MARK J. MENOTTI
JOHN E. MERNA
ANDREW R. MILBURN
LAWRENCE F. MILLER
MICHAEL A. MOORE
JOSEPH M. MURRAY
CHRISTOPHER L. NALER
TODD J. ONETO
DUANE A. OPPERMAN
CHRIS PAPPAS III
TIMOTHY M. PARKER
ARTHUR J. PASAGIAN
DOUGLAS R. PATTERSON
RICHARD W. PAULY
JOHN M. PECK
VON H. PIGG
WILLIAM N. PIGOTT, JR.
TRAVIS M. PROVOST
STEPHEN E. REDIFER
JOHN M. REED
KEITH D. REVENTLOW
GEORGE W. RIGGS
DONALD J. RILEY, JR.
DAVID W. ROWE
JOSEPH J. RUSSELL
KEITH E. RUTKOWSKI
MARK G. SCHRECKER
STEPHEN S. SCHWARZ
ROBERT R. SCOTT
CHARLES L. SIDES
STEVEN A. SIMMONS
ROBERT B. SOFGE, JR.
MARK E. SOJOURNER
JOSEPH P. SPATARO
CLAY A. STACKHOUSE
ROGER D. STANDFIELD
SCOTT F. STEBBINS
JAMES A. STOCKS
DANIEL M. SULLIVAN
MICHAEL W. TAYLOR
DAVID C. THOMPSON
ALPHONSO TRIMBLE
MATTHEW G. TROLLINGER
JEFFREY D. TUGGLE
LORETTA L. VANDENBERG
MICHAEL E. WATKINS
SEAN D. WESTER
DWAYNE A. WHITESIDE
TIMOTHY E. WINAND
JOSEPH A. WOODWARD, JR.
JAMES B. ZIENTEK