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Senate

The Senate met at 9:45 a.m. and was called to order by the Honorable KEN SALAZAR, a Senator from the State of Colorado.

The PRESIDING OFFICER. Today's prayer will be offered by our guest Chaplain, Dr. David D. Swanson, First Presbyterian Church, Orlando, FL.

PRAYER

The guest Chaplain offered the following prayer:

Gracious God, we bow before You as we open these proceedings asking for the provision of Your wisdom and counsel. You have blessed us in marvelous ways, and we thank You for this great country—for the privilege of living and serving in this land. As a result, may we be mindful that ''to those who have been given much, much will be required.''

I also ask Your blessings today upon these men and women who serve as our Senators. It is lonely and often windy where they live. The expectations are impossible to meet, problems too vast to completely overcome, requests for action endless, and opportunities to be loved far too infrequent. No one knows what it is like to walk the road which they walk. No one knows the personal sacrifices they have made. No one knows the burdens they carry. But You do, and I ask that You might come up underneath them on that road and carry those burdens with them. Let them know of Your enduring presence and the counsel of Your great wisdom. May these men and women—those viewed by many as the powerful of the Earth—yield to Your great power that they might serve humbly, faithfully, and effectively on behalf of the people of this Nation.

Bless us, we pray, in the Name of Jesus Christ. Amen.

PLEDGE OF ALLEGIANCE

The Honorable KEN SALAZAR led the Pledge of Allegiance, as follows:

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

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

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

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, November 8, 2007.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable KEN SALAZAR, a Senator from the State of Colorado, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

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

RECOGNITION OF THE MAJORITY LEADER

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

ORDER OF PROCEDURE

Mr. REID. Mr. President, I wish to turn to the distinguished Senator from Florida for just a minute. I ask unanimous consent that we not go to morning business until he completes his brief statement and I am recognized again.

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

THE GUEST CHAPLAIN

Mr. REID. Mr. President, before I turn to the Senator from Florida, I wish to say that I sit through these prayers every day. It is really good for me to do that. But the words that were uttered by Dr. Swanson this morning, as Johnny Cash says in that song, ''you've been reading my mail'' were really important to me, and I am sure every Senator listening to this prayer felt the same way I did. I am going to get a copy of that prayer and read it once in a while because he was talking about me when he gave that prayer and talking about Senator NELSON, Senator BAUCUS, and all of us.

Mr. NELSON of Florida. Mr. President, he was talking about all of us in lifting the burdens and the burdens we gladly bear. The pastor's prayer reminded us of our need to have a servant heart, to serve the Nation.

Dr. Swanson is very much a part of our Orlando community. He is my personal pastor, as Grace and I are members of the First Presbyterian Church of Orlando. He is illustrative of the great pastoral leadership we have had in Orlando.

A few weeks ago, we had my 30-year friend, the just-retired pastor of the First Baptist Church of Orlando, Jim Henry, here. He is one of the great leaders of the faith. We have had in this Chamber Rev. Sam Green of St. Mark A.M.E. Church, now Bishop Sam Green in a district in South Africa, another one of the great pastors of our region in central Florida. We will be having another one of the great pastors, Rev. Willie Barnes of the Baptist Church in Eatonville, FL, another one of my personal friends and one of the great pastors we have been blessed to have in our region. What they talk about, as Dr. Swanson said so eloquently in his prayer, is the unity of what was taught in the ancient Scriptures and the New Testament; that is, servant leadership. That was so well expressed in the life of Jesus, who was a role model as a leader but as a servant leader.

We welcome these pastors, and particularly we welcome Dr. Swanson today to the Senate.

The ACTING PRESIDENT pro tempore. The majority leader.

SCHEDULE

Mr. REID. Mr. President, this morning the Senate will be in a period for the transaction of morning business for 1 hour, with the first half controlled by the majority and the second half controlled by the Republicans. Following morning business, the Senate will resume consideration of the veto message on H.R. 1495, the Water Resources Development Act. There is 30 minutes of debate on the veto message. Senators BOXER and INHOFE will control 7½ minutes each, and the other 15 minutes in support of the veto is under the control of the Republican leader or his designee.

For planning purposes, Members can expect a rollcall vote on the veto override about 11:40 this morning. As I have indicated, we will vote on the President's veto override. The House of Representatives voted yesterday 361 to 54 on the veto override.

This is one of the bipartisan measures we have done. We have had Senators BOXER and INHOFE working together on legislation, which any day should be a day of celebration, and they have worked so hard on this legislation. I am confident Members on both sides of the aisle will support the two managers.

Later this afternoon, we will receive the Defense appropriations conference report from the House which will include a continuing resolution to keep Government agencies funded until the middle of next month. We hope to reach agreement so we can dispose of that matter quickly and send it to the President today. It is essential we do this quickly so we can send our men and women in uniform, who have sacrificed so much in Iraq and Afghanistan and around the world, the support they deserve. It is about $470 billion.

Finally, I have had some discussion with the distinguished Republican leader to try to work out an agreement to dispose of the Mukasey nomination. I thought I had that all worked out. Last night, a little wrinkle appeared, but I hope we can reach agreement on that today as well.

RECOGNITION OF THE REPUBLICAN LEADER

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

MAKING GOOD PROGRESS

Mr. MCCONNELL. Mr. President, let me just say that I will be working with the majority to facilitate passage of both of those items he mentioned. We are looking forward to making good progress today.

MEASURE PLACED ON THE CALENDAR—S. 2318

Mr. REID. Mr. President, S. 2318 is at the desk. I ask for its second reading.

The ACTING PRESIDENT pro tempore. The clerk will report the bill by title for the second time.

The legislative clerk read as follows:

A bill (S. 2318) to amend the Internal Revenue Code of 1986 to repeal the individual alternative minimum tax and to permanently extend the reductions in income tax rates, and for other purposes.

Mr. REID. Mr. President, I object to any further proceedings at this time.

The ACTING PRESIDENT pro tempore. Objection is heard. The bill will be placed on the calendar.

RESERVATION OF LEADER TIME

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

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now proceed to a period for the transaction of morning business for 60 minutes, with Senators permitted to speak for up to 10 minutes each, with the time equally divided and controlled between the two leaders or their designees, with the majority controlling the first half and the Republicans controlling the final half.

The Senator from Montana.

DISASTER ASSISTANCE PROGRAM

Mr. BAUCUS. Mr. President, I rise today to speak in support of the Disaster Assistance Program in the farm bill.

From the beginning, farming has been hard work. In the Book of Genesis, for example, God told Adam:

[T]hrough painful toil you will eat of [the land] all the days of your life . . . By the sweat of your brow you will eat your food.

Drought and floods, frost and hail have plagued farmers ever since. It is hard work, yet they stick to it. It is vital work to put food on America's table. It has been true since Adam: All farmers suffer disasters. In farming, it is not a matter of if, it is a matter of when.

For example, early this year, Congress passed yet another ad hoc disaster assistance package, and I was proud to back that package. But for some farmers, it was too little; it was too late. Producers are still reeling from disasters that occurred 2 years ago. For some producers who had a disaster in the spring of 2005, assistance will not come until late 2007 or early 2008.

Today is November 8, and the regulations for that disaster bill we passed in May have not even been published. Yet some Senators are already calling for an extension of that disaster bill through 2007 to cover this summer's crops. Unfortunately, if history repeats itself, Congress will get around to passing another disaster bill around 2010. This is no way to provide disaster assistance.

I wish to show a picture of Dave Henderson's farm in Cut Bank, MT. Dave is probably one of the best farmers in Montana. Just look at his lush field of grain. This is what Dave's wheat and barley fields typically look like. During a normal year, Dave raises about 35 bushels of wheat per acre and about 54 bushels of barley per acre. That is normal—35 bushels of wheat and 54 bushels of barley. But 2007 was anything but normal for Cut Bank, MT.

From October 1, 2006, through September 1, 2007, Cut Bank received 2 inches of rain. We can see the picture on the left, the result of that lack of rain. You don't raise a crop with 2 inches of rain all season.

On my right is a picture of a normal year, and on my left is what happens when there is no rain, about 2 inches over most of the growing season. That is all he received.

This fall, Dave harvested about 4 bushels of wheat per acre, and his barley averaged about 3 bushels per acre. You cannot pay your bills when your crop is about 10 percent of normal. How much assistance do you think Dave received from the disaster bill we passed in May? What do you think? The answer is nothing. Why? Because he did not plant before the February 28 cutoff date. Consider this: If Dave had planted winter wheat instead of spring wheat, he would have received a disaster payment. But he didn't. He planted spring wheat instead of winter wheat, so he didn't get a disaster payment.

Congress can do better for our farmers. Because of Dave and thousands of farmers and ranchers across the countryside, I am proud we included a reliable disaster program in our farm bill. In the future, farmers will know that if they suffer a disaster, help will be on the way. It won't make them rich, but it will help them get by.

I am proud and grateful for the support of the disaster program we have in our farm bill, the support it has received from all around the countryside and from a broad range of agricultural groups.

I have a letter, which I am showing, from the National Farmers Union signed by over 50 groups from all across our country. This letter is signed by 50 different farm groups. We can see the whole list. I know the print is a bit small: National Farmers Organization, Ohio, Oregon, Pennsylvania, ARCAF, just to name a few. It is a large group: American Farm Bureau, Cape Cod Cranberry Growers, Texas Sheep and Goat Raisers Association, National Grape Cooperative Association, and the Independent Community Bankers of America.

Why bankers? They have just as much at stake as farmers do. They rely on each other. Bankers will more likely give a loan to a farmer if he thinks

the farmer is going to have some kind of income with a crop or reasonable disaster assistance program. But a banker is less likely to provide that loan if it looks as if that farmer is not going to have any income or if there is not a good disaster assistance program, assuming if there is hail, drought, or whatnot.

I have another letter of support from the National Cattlemen's Beef Association representing cattle ranchers all across the country, showing a broad array of support. It is not just farmers but also livestock producers who very much want and support the agricultural Disaster Assistance Program that is in the farm bill. These letters demonstrate how important reliable disaster assistance is to all sectors of agriculture. It doesn't matter if you are a cattle rancher in Montana or a cranberry grower in Cape Cod; when disaster strikes, this program will provide a reliable safety net.

One more interesting point. In addition to helping farmers, the disaster program in the farm bill is good for taxpayers. The program is only available to farmers who purchase crop insurance, and that is why it is also good for taxpayers. Let me explain that a little more.

Those farmers who purchase high levels of insurance are eligible for more assistance when they face natural disasters. If you purchase low levels of insurance, you get probably less assistance. The program, therefore, creates a powerful incentive for farmers to purchase high levels of crop insurance and take measures to manage their own risk. When farmers purchase crop insurance, taxpayers save money on disaster assistance.

Now, I will put up a chart that shows this a little more graphically, by definition. This graph compares the disaster payments made to sample Midwestern farms that are under both the ad hoc and new disaster program. The ad hoc is in blue, and in the disaster program, in the farm bill, the bars are in red. Under the ad hoc disaster bills, farmers' payments would have been about $9,000 for a 75-percent crop loss—$9,000 for a 75-percent crop loss—compared to only $3,000 under the new program. If you had a 50-percent crop loss, the ad hoc payment would be $3,400 but, under the new program, $3,300.

You might ask: What in the world is going on? Why in the world would we, in our farm bill, provide disaster assistance at the lower level, with a 75-percent crop loss, than in the ad hoc program? As I mentioned earlier, it is because of crop insurance. You are more likely to get more assistance when you purchase crop insurance. That is a good thing. That saves taxpayers money because we will be paying out fewer dollars under the disaster program.

The program also saves taxpayers money by basing payments on whole-farm losses. In the past, disaster payments were based upon losses to individual units or individual crops on the farm. Farmers were never asked if the farm's other units or their crops had bumper harvests. So it was based on a unit. One crop disaster got payment in the ad hoc disaster programs, even though your whole farm was doing real well on a net basis. You may have had hail to a small part, but the rest of the place was great. That often happens in my part of the world. That doesn't make sense.

So we have changed that disaster assistance based on the whole farm on a net basis, and I think that is fairer to the taxpayers. The program will look at all the crops on a farm and only provide assistance if the entire farm has suffered a loss. When disaster payments are based on whole-farm losses and not individual unit losses, taxpayers save money and assistance is delivered to those who need it the most.

In closing, our farmers deserve a disaster program that is dependable, that is timely, and is equitable. Our taxpayers also deserve a program that is fiscally sound and requires farmers to manage their risk; i.e., crop insurance. This disaster program accomplishes both. It is a win for agriculture and it is a win for taxpayers.

I strongly urge my colleagues to reject any attempt to weaken or cut the disaster program. Farmers such as Dave Henderson deserve better, farmers producing in other parts of the country deserve better, and our taxpayers deserve better.

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

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

The legislative clerk proceeded to call the roll.

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

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

Mr. BAUCUS. Mr. President, I ask unanimous consent to have printed for the RECORD the letters I referred to earlier.

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

NATIONAL CATTLEMEN'S BEEF ASSOCIATION,
Washington, DC, November 1, 2007.

Hon. MAX BAUCUS,
U.S. Senator,
Washington, DC.

DEAR SENATOR BAUCUS: On behalf of the National Cattlemen's Beef Association (NCBA), and the farmers and ranchers it represents across the Nation, I am writing to express support for the Permanent Disaster Relief Trust Fund that was approved by the Senate Finance Committee earlier this month as part of the Heartland, Habitat, Harvest and Horticulture Act of 2007 (S. 2242). It takes nearly two years for a cow to produce her first calf, and a significant amount of effort and expense is invested in each breeding animal. For this reason, the impact of natural disasters such as hurricanes, wildfires, tornadoes, blizzards, floods or prolonged drought can be particularly stinging for cattle producers. Appropriate and timely agricultural disaster assistance from the permanent disaster relief program will provide critical assistance to producers when they need it most.

In the past, Congress has moved to pass disaster assistance on an ad hoc basis in an effort to help those impacted by catastrophic weather events. It has become abundantly clear, however, that this reactive system of addressing agricultural disasters is no longer an effective or viable means of providing timely aid when it is needed. Producers struggle with difficult management, movement and sale decisions in the midst of a disaster, and the situation is only worsened by the uncertainty that accompanies legislative action. Natural disasters will continue to occur, and NCBA submits that a different approach is needed. While the Permanent Disaster Relief Trust Fund is not perfect, it represents a significant step toward prudent fiscal planning that will serve the interests of both Congress and beef producers.

Livestock producers are accustomed to dealing with adverse weather conditions, and most do their best to plan for them. In fact, beef producers have actively sought out measures to mitigate their risk of loss in the case of weather related disasters. An example would be strong producer participation in the Risk Management Agency's (RMA) Pasture, Rangeland and Forage Insurance Pilot Program, which was made available just last year to provide livestock producers in certain geographic areas with a mechanism to insure against losses in forage production. Cattle producers applaud the objectives of this program, and NCBA is committed to working with RMA and others to ensure that workable risk management tools are available to producers.

Nevertheless, during periods of extreme and prolonged disaster, access to Federal disaster assistance programs is important to the viability of many livestock operations. In the most devastating instances, when producers have experienced tremendous grazing forage losses or even livestock mortalities, the Permanent Disaster Relief Trust Fund will provide crucial support as producers struggle with additional expenses for supplemental feed, grasslands restoration and herd rebuilding.

There will no doubt be challenges in implementing the permanent program, and it is likely that some provisions will need refinement. But, the central tenets of the Permanent Disaster Relief Trust Fund, such as no disincentives for the development and adoption of other insurance and risk management options, eligibility criteria based on actual livestock and/or forage production losses and requirements that any disaster assistance funds are to be directed to only those producers directly impacted by disaster conditions, are a step in the right direction.

There is no 'silver bullet' solution to addressing agricultural disaster assistance, but NCBA appreciates your efforts on this issue. We look forward to working with you to see the inclusion of this program in the 2007 Farm Bill as it moves through the Senate.

Sincerely,

JOHN QUEEN,
President,
National Cattlemen's Beef Association.

NOVEMBER 5, 2007.

U.S. SENATE,
Washington, DC.

DEAR SENATOR: Each year, weather-related disasters are likely to occur in many communities across the country. While ad hoc assistance has always been appreciated in the past, the 2007 Farm Bill presents an opportunity to establish a predictable program for future disasters. We urge you to support

the Supplemental Disaster Assistance Program and oppose any efforts during floor consideration of the 2007 Farm Bill to redirect funds away from the disaster program.

According to the Congressional Research Service, 34 ad hoc disaster packages have been approved since fiscal year (FY) 1989, totaling $59 billion. Each approved measure requires the U.S. Department of Agriculture (USDA) to recreate an implementation plan that often results in new guidelines and sign up requirements. A standing disaster program will ensure a consistent and reliable implementation strategy is in place for any future weather-related disaster. Furthermore, the program works in concert with current risk management programs, such as crop insurance and the Non Insured Assistance Program, by requiring producers to purchase coverage and providing an incentive to purchase higher levels of coverage.

Many of our organizations have expressed strong support of ad hoc disaster assistance in the past, but have witnessed the increasing difficulty in securing help. Earlier this year, Congress approved emergency ad hoc disaster assistance for losses that occurred in 2005, 2006 or 2007. Unfortunately, the assistance is just now reaching producers for losses sustained in 2005, which is a long time to wait.

Again, we urge you to support the Supplemental Disaster Assistance Program and oppose any efforts to redirect resources to other farm bill programs.

Sincerely,

Agriculture Committee of the Midwestern Legislative Conference of CSG.
American Agriculture Movement.
American Association of Crop Insurers.
American Beekeeping Federation.
American Corn Growers Association.
American Farm Bureau Federation.
American Sheep Industry Association.
American Soybean Association.
American Sugar Alliance.
California Dairy Campaign.
California Farmers Union.
Cape Cod Cranberry Growers Association.
Colorado Wool Growers Association.
Idaho Wool Growers Association.
Independent Community Bankers of America.
Iowa Farmers Union.
Kansas Farmers Union.
Maryland Sheep Breeders Association.
Michigan Farmers Union.
Montana Farmers Union.
National Association of Farmer Elected Committees.
National Association of State Departments of Agriculture.
National Barley Growers Association.
National Bison Association.
National Cotton Council.
National Family Farm Coalition.
National Farmers Organization.
National Farmers Organization-Wisconsin.
National Farmers Union.
National Grape Cooperative Association.
National Sunflower Association.
North Dakota Farmers Union.
Northeast States Association for Agricultural Stewardship.
Ohio Farmers Union.
Oregon Cattlemen's Association.
Pennsylvania Farmers Union.
R–CALF United Stockgrowers of America.
Ricebelt Warehouses.
Rocky Mountain Farmers Union.
South Dakota Farmers Union.
Southern Peanut Farmers Federation.
Texas Sheep & Goat Raisers Association.
United Dairymen of Arizona.
United States Cattlemen's Association.
U.S. Canola Association.
U.S.A. Dry Pea & Lentil Council.
Washington State Sheep Producers.
Welch's.
Western Peanut Growers Association.
Wisconsin Farmers Union.
Women Involved in Farm Economics.
Wyoming Wool Growers Association.

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

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

The legislative clerk proceeded to call the roll.

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

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

WATER RESOURCES DEVELOPMENT ACT

Mr. ISAKSON. Mr. President, I wish to rise and speak on the Water Resources Development Act, and I wish to, first of all, thank Chairman BOXER and Ranking Member INHOFE of the EPW Committee for all the work they have done on the WRDA—Water Resources Development Act—and I wish to particularly thank my colleague, MAX BAUCUS, as he is chairman, and I am the ranking member of the subcommittee overseeing the Corps of Engineers and the Water Resources Development Act. I voted for it on the floor, and today, when the vote comes to override the veto of the President, I am going to vote to override the veto. I wish to enter into the record today, specifically and candidly and briefly, exactly the reasons why.

No. 1, the Water Resources Development Act is an authorization, not appropriations. To characterize it as overspending is not correct because it is the appropriations bill where we do that.

No. 2, authorizations set priorities, priorities upon which the Appropriations Committee makes decisions based on the money it has and on where best to spend the resources we have.

No. 3, as for the size of the authorization, everyone should know that up until the year 2000, this Senate, and the House on the other end of this building, biannually passed Water Resources Development Act reauthorizations. We have gone 7 years without prioritizing the Corps of Engineers and the water resources of this country.

Think about what has happened in those 7 years—Rita and Katrina in particular; from my standpoint, in my State of Georgia, a category 4, 100-year drought threatening the drinking water of millions and millions of Georgians, North Carolinians, Tennesseans, and Alabamans. In this bill is money for the North Metro Planning District of Georgia, a consolidation of all the governments in the region, to coordinate water resource development so we can better deal with retention, saving water as it flows downstream so we can have drinking water assurances and we can have backup that allows us to assure our citizens when another 100-year drought, category 4 drought comes, that we will have done the planning necessary to deal with it, which right now has not been done. For this bill to be vetoed is to say no to an imminent priority in my State and for tens of millions of people in the Southeast.

So while I have complete respect for the President of the United States, and I commend him on so many things and don't like to vote against him, he is wrong to veto this bill. I will be proud to vote to override that veto because I wish to prioritize infrastructure for our country on a timely basis; I wish to give the appropriators the indications of what we, as a Congress, think are the most needed programs to be appropriated; I wish to deal with the ramifications and the disaster of Katrina and Rita, to see that it doesn't happen again; I want the Everglades project to go forward; and I want my State and my people to have the drinking water and the water resources necessary.

For us to delay or for us to deny would be wrong. We will have fights on the appropriations bills over how much money to spend. We should never have a fight on our responsibility to prioritize the needs of our States or the needs of our citizens. I commend Chairman BOXER, I commend Senator INHOFE and Senator BAUCUS for their hard work, and I will join with them in voting to override the veto and set the priorities for the citizens of my State and for the United States in the years to come on their water resources.

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

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

The assistant legislative clerk proceeded to call the roll.

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

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

The Senator from Florida is recognized.

NOMINATION OF JUDGE MUKASEY

Mr. MARTINEZ. Mr. President, I rise during a period of morning business to talk about two very important topics. For the last 40-some days we have been discussing the nomination by President Bush of Judge Mukasey to be the next Attorney General. It is a nominee to the President's Cabinet.

First, I believe the President ought to be accorded great deference. The President gets to pick the team to work with him. This is a Member of the Cabinet. It is an appointment that at this juncture, realistically, may not last much more than a year or so. It is not a lifetime appointment to the court, it is to serve on the President's Cabinet, but it is to the very important job of Attorney General. It is a job in which, in this particular time in history, it is terribly important that we

have someone of measured judgment, someone of impeccable credentials, and someone with a fine-tuned ear to following the rule of law.

In Judge Mukasey, when his name first surfaced, we had a consensus nominee. He was referred to as someone who would get swift confirmation. He was further referred to as someone who had not only the judicial experience but also had significant experience in dealing with cases relating specifically to issues of terrorism. He has 15 years of experience as a Federal judge in the Southern District of New York. During that time he presided over several national security cases, in which cases he demonstrated his ability to faithfully adjudicate difficult issues of law and fact.

It seems to me somewhat unfair to require the nominee for Attorney General to now jump through hoops that even the Senate itself has not been willing to tackle head on, on the issue of waterboarding. I believe that is a bit of a red herring. I think at the end of the day, when it is all said and done, it is time we move forward on the confirmation of this good man, a good man who now has had the vote of confidence from the Judiciary Committee; that his nomination be brought to the floor so we can give the United States an Attorney General, someone at the head of the Justice Department, someone we desperately need at this point in history.

There is no question that I believe it is time, after 48 days of his nomination being pending as of today, that the Senate take up this nominee and move it swiftly forward. Judge Mukasey has answered all the questions that have been presented to him. He has answered them to the best of his ability. He has not been able to answer questions that are in the nature of hypotheticals. He has not been able to answer questions that are in the nature of things that may be a part of classified programs that are not available to him at this point in time and that might, in fact, not be the kinds of questions any other nominee to be Attorney General could answer in the course of his nomination.

In writing to members of the Judiciary Committee, Judge Mukasey wrote:

> Some of you told me that you hoped and expected that I would exercise my independent judgment when providing advice to the President, regardless of whether that advice was what the President wanted to hear. I told you that it would be irresponsible for me to do anything less.

He went on to say that if he was confirmed, he would review any course of interrogation techniques currently used by the U.S. Government and determine whether any technique would be unlawful and advise the President accordingly. He committed that to the President, to the Congress, and to the American people.

I take him at his word. This is a respected man. This is a respected judge. He has a track record. This is not a Johnny-come-lately. His nomination should be confirmed. I urge my colleagues to vote in favor of the nomination of Judge Mukasey to fill the vacancy of Attorney General which has been open for much too long and this good man may begin his service to our country at this very important post at this very important juncture.

OVERRIDING THE WRDA VETO

Mr. MARTINEZ. Mr. President, I want to touch on another subject that is terribly important to the State of Florida. It has to do with the Water Resources Development Act which for a long time has been pending before the Congress, and which is so long overdue. When this matter comes to a vote, I will vote to override the President's veto, primarily because in this bill there is nearly $2 billion for the long overdue and critically important work of restoring Florida's Everglades. This is a bipartisan project. This is a project of unique cooperation between the State and Federal Government.

The history of Florida's Everglades is fascinating. About 100 years ago it was decided that man could conquer all and, in fact, the Army Corps of Engineers should endeavor, through many projects, to drain the Everglades so they could be utilized for farming and that the water would be moved out. So a series of canals was dug and all sorts of efforts were put in place to drain the swamp, to drain the Everglades.

Now we find ourselves a century later understanding that these well-intended Floridians of those days were terribly misguided. The Everglades is a jewel to the State of Florida; it is a jewel to the Nation. It is an environmental masterpiece, the wildlife, between the plants and animal life, but also it is an essential water resource for the people of Florida.

Some years ago, under the leadership of my predecessor in office, Senator GRAHAM, who had been Governor of Florida, and many other Floridians, working in partnership with Governor Bush and later when Senator NELSON came to the Senate, along with Florida's Governor, they crafted this Everglades Restoration Program. For 5 years this bill has been delayed. It has meant delaying substantial Federal involvement in a multitude of necessary projects, including the Comprehensive Everglades Restoration Plan. It is the funding that has been missing. The State has done its part. The Federal Government has, so far, been absent.

I agree with the President and the distinguished Senator from New Hampshire that this bill lacks fiscal discipline. It seeks to spend too much on programs that have little need or reason for Federal support. But I also have to recognize that the longer we wait for the Federal Government to meet its Everglades commitment, the more expensive the cost and the more damage that will be irreversible to this fantastic ecosystem. In the past 5 years the cost of the Indian River Lagoon project alone has increased by more than $100 million. Seven years ago, the State of Florida and the Federal Government entered into an agreement:

> to restore, preserve and protect the South Florida ecosystem while providing for other water-related needs of the region. . . .

Since that time, the State of Florida has invested more than $3 billion in this effort; but the Federal Government, originally intended to be an equal partner in the restoration, has yet to meet its obligations—spending only a fraction of Florida's investments on preplanning efforts.

The Everglades belong to Florida, but they are a national treasure. The Federal Government has committed to restore the Everglades and it is high time they follow through on this commitment. What exists today is more than 2 million protected acres of what was once deemed worthless swampland slated for development. Indeed, development did occur and road construction has almost irreversibly impeded the natural cleansing flows of the Everglades. But because of the work of the State of Florida and numerous environmental organizations, we are reversing the damage of development. Once on a path to destruction, the Everglades now teems with wildlife, endangered and rare species, and contributes greatly to south Florida's environmental health. But the work is far from complete. A substantial portion of the work lies ahead.

No single bill Congress approves will have as much positive impact on Florida's environment as this one. It is, in fact, more than an environmental project. It is also a water project. Over the last several weeks, we have been hearing reports about the scarcity of water around Atlanta, where several million Americans reside. It has come to the point that Florida, Georgia, and Alabama had to have a serious conversation with the Department of Interior about water flows from the river that flows from Georgia all the way into Alabama and Florida. In Florida it is the Chattahoochee River.

The serious nature of that problem can also be reconciled with the serious problem we would see in south Florida if our water supply were impeded. This is not only an environmental project, it is also a water resources project. It is about the water that is necessary to sustain life and to sustain the people, the several million people who live in south Florida.

I believe it would be a very important moment for us to override the veto, to move forward with the Everglades Restoration, the Indian River Lagoon, the Picayune Strand—these are very important projects—and a score of other projects around the State of Florida, all related to our environment that is such an important part of the Comprehensive Everglades Restoration. But more than that, it is part of Florida's future and part of the legacy we leave our children.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Hampshire is recognized.

Mr. GREGG. Mr. President, are we in morning business?

The PRESIDING OFFICER. We are.

PAY-GO

Mr. GREGG. Mr. President, this morning, while I was working out in the gym, on the air came one of my friends, a gentleman with whom I enjoy serving, who has a great sense of humor—Senator SCHUMER from New York. He was being interviewed by the CNBC team, which is a great and enjoyable team to watch: Mark Haines and Becky Quick and others—David Faber. He said the Democratic Party had been disciplined because they had used pay-go as a way to control spending here in the Congress.

I almost fell off the treadmill, because that statement is so outrageous that it could only be made by somebody from New York who sees things in big pictures, sees the forest but misses the trees. The statement represents, or implies, that pay-go is a fiscally disciplining event around here when just the opposite is what has occurred. Pay-go has become a term of art which has a nice name, and which is thrown out by some of my colleagues on the other side of the aisle as their representation of fiscal discipline, but in fact it has become a mechanism for spending money at an outrageous rate in entitlement and mandatory accounts.

I don't call it pay-go anymore, I call it ''Swiss-cheese-go.'' The record is now pretty clear. Since this Congress came into being under the control of the other party, with the representation that pay-go was going to be used to discipline spending around here, there have been 13 major incidences—these don't count the minor ones—major incidences of pay-go being waived, manipulated, or manhandled so that it didn't apply to spending.

Items which should have not been allowed to occur, spending initiatives which should have been subject to the pay-go rules have been ignored, manipulated, or gimmicked so that pay-go did not apply on these 13 incidents, which now total $143 billion—billion—in new spending.

So when Senator SCHUMER spoke on CNBC this morning—I think he was being asked by Mark Haines—Mark Haines said to him: Will pay-go survive? Senator SCHUMER said: Sure, it will survive. We are committed to this type of fiscal discipline.

What Mark Haines should have asked is: What happened to pay-go? Why have so many holes been put in the process? Why has the Democratic leadership allowed it to be waived, manipulated, and gimmicked so that $143 billion of spending, which should have applied to pay-go, which should have had pay-go applied to it, has simply been allowed to pass?

Well, it is very simple. Pay-go was never meant to discipline spending. It is a fraud to represent that pay-go is used to discipline spending. Honestly, if we as a Congress had to sign financial statements the way we make people sign financial statements in the corporate world as a result of the Enron case—you know, the heads of our various corporations have to actually sign their statements, and they are subject to criminal penalty if they are inaccurate.

If we were forced to sign a fiscal statement that said we were using pay-go to discipline spending, we would all go to jail because if we signed that statement we would be defrauding the American people at a level that would make Enron look like a little exercise.

Now, $143 billion of fraud has occurred under the alleged pay-go rules because pay-go, which should have applied, has not been applied. But this is just the first step in the exercise of profligate spending around here. This is one of the more ingenious ones because under the name of pay-go, we are representing that we are controlling spending, when, in fact, using pay-go, we are actually spending $143 billion.

There is the second step, which is the discretionary side. This is all entitlement spending, of course. Now, $23 billion is being spent over what the President requested this year. We hear from the other side of the aisle: Well, it is only $23 billion. It is being spent on good causes. Everything gets spent on a good cause around here.

Then in the Labor-HHS bill, which represents $11 billion of that $23 billion, obviously many good causes are listed. But what people fail to mention is, first, $23 billion is a lot of money. In fact, there are something like 30 States in this country which could operate their entire budgets on $11 billion; $23 billion would probably be the budget of almost every State in this country.

But this builds the baseline. This $23 billion is not the end of the number we are spending, it is the beginning of the number of the add-ons. When you take it out to 5 years, the baseline jumps by $133 billion. If we take it out to 10 years, that is $313 billion—billion—of additional spending.

So this is not just $23 billion of new spending that is being spent above what the President believes is necessary in order to operate the Government, it represents $313 billion of spending over 10 years. That is a big number. That is a massive number. You could do a lot with that amount of money. You could cut a lot of taxes, for example. You could eliminate the double tax on people who are married, which is going to go back up in 2010, if you did not spend this money.

You could give higher tuition tax credits to people trying to get their college degrees if you did not spend this money. You could extend the capital gains and dividends tax rates, which disproportionately benefits senior citizens, especially the dividends tax rate if you did not spend this money.

This is real money. Real money—$23 billion this year totals $313 billion over a 10-year period. So you take this $313 billion and you attach it to the swiss-cheese-go attack here of $143 billion. You are up to half a trillion dollars, half a trillion dollars that this Congress has spent in 10 months. They have only been in charge for 10 months—half a trillion dollars.

Multiply that out. My goodness, you are up to $2 trillion over the term of this Congress, theoretically. Now, $2 trillion, that is even real money by Democratic terms. I think colleagues on the other side of the aisle would even agree that $2 trillion is a lot of money.

Now, that might be a bit of hyperbole, but the half a trillion dollars is not. That is how much this Congress has cost the American people in the first 10 months in office, while they have been living under the fiscal discipline of pay-go, while they go on TV shows and say: We are disciplined because we believe in pay-go.

As a result of that, we get half a trillion dollars of new spending.

Well, that is a lot. We have a bill on the floor right now that regrettably follows on with this exercise in excess and profligateness. The farm bill alone has $34 billion of gimmicks in it to try to avoid budget discipline, $34 billion of gimmicks. That is huge. I think it adds four new major subsidy programs for new crops, including asparagus and camellia—I do not even know what that is—and a variety of other crops; creates or authorizes programs which study or work to alleviate stress on farmers; adds Chinese gardens in places; does a little gimmick which is even creative by the creativeness of this place, creates a new standard of creativeness where they now are taking entitlement spending and freeing up entitlement spending by giving tax credits.

In other words, they create a new tax credit, and the purpose of that tax credit is to pay for items which historically have been paid for by entitlement spending under the farm bill, mandatory spending. Since they no longer have to pay for that with mandatory spending, they have created an extra $3 billion they could spend on new farm programs.

So the farm bill itself is a continuation of this exercise in making the concept of pay-go superfluous. And, certainly, the claims that pay-go applies around here are fraudulent. It is about time, hopefully, people start paying attention.

When you are up to half a trillion dollars of new spending in 10 months, much of which has been done outside of the budget window, so that the budget rules have not been allowed to apply to it, that gets to serious money. It gets to a serious lack of fiscal discipline.

I hope we would change this course, but we do not appear to be changing

this course. We actually appear to be aggravating this problem by bringing forward bills such as the farm bill, which continues this failure of fiscal discipline.

Who has to pay for all of this? Well, I see those young pages. They are enthusiastic, they smile, they help us out. Regrettably, every day they are here—most of them have been here for a little while—we add about a billion dollars to their debt.

Interesting how this adds up. But that $500 billion has been put on the books in the last 10 months. We are not going to pay for it. Our generation is not going to pay for it. These pages and their generation are going to have to pay for it. It is all debt. It is not fair to them, and it is certainly not fair to the American people to represent that we are exercising some sort of fiscal discipline around here under the term ''pay-go,'' when, in fact, just the opposite is happening. That is used as a stalking horse, not for fiscal restraint but for spending.

Mr. DURBIN. Would the Senator yield for a question?

Mr. GREGG. I would be happy to yield for a question.

Mr. DURBIN. I just have one question for the Senator from New Hampshire. As I understand it, the President is going to ask for $196 billion for 1 more year in the war in Iraq, not paid for.

So would the Senator be voting against the President's request for $196 billion, unpaid for, to continue the war in Iraq?

Mr. GREGG. Well, that is a good question, an excellent question. And the answer is, the first obligation of a Federal Government is to defend the country. And when you have soldiers in the field, you do that. You pay for them being in the field.

I would suggest the way we could pay for that, in fact, would be that we not waive the pay-go rules for this $143 billion of spending which has nothing do with national defense or, alternatively, we could eliminate the $23 billion of nondefense spending which has been added by the Democratic Party in this year's budget cycle. That would save us a significant amount of money.

So I would be happy to pay for it by cutting either of those accounts. But, in any event, I am going to pay for soldiers who are in the field.

Mr. DURBIN. Will the Senator yield for a further question?

Mr. GREGG. I would be honored.

Mr. DURBIN. Can the Senator tell me how many Presidents in the history of the United States of America have proposed tax cuts in the midst of a war?

Mr. GREGG. Well, I would be happy to respond to that if I knew the answer, but I do not. But let me talk about the tax cuts. The tax cuts which were put in place were put in place prior to 9/11. As a practical matter, had they not been in place, the effect of the burst of the Internet bubble in the late 1990s, which was the occurrence of a dramatic expansion of the economy with a paper expansion of equities being issued for companies which had value in the late 1990s, was a speculative event.

That collapse, coupled with the 9/11 attack which put this country into trauma, both physically and politically, but also economically, would have led us into a very severe recession if we had not had those tax cuts.

The fact that we put those tax cuts in place early in this administration has led to economic growth, which has led to 43 months of growth, 8.7 million new jobs, and interestingly enough, those tax cuts have actually led to our revenues today being at a historic high. Over the last 3 years we have collected more money in revenue growth than we have received at any time in our history.

We are now getting 18.7 percent of gross national product in revenues, when historically we usually get about 18.2 percent. And the vast majority of that revenue growth has come directly from the cut in capital gains rates, as we have received over $100 billion of new revenue in just the capital gains activity.

So I would say, first, the tax cut was not put in place during the war. It was put in place at the beginning of the war; and, secondly, it has had the right effect, which is to energize economic expansion and energize revenue to the Federal Government.

I do appreciate that question.

I yield the floor.

Mr. DURBIN. Mr. President, how much time is remaining on the Democratic side?

The PRESIDING OFFICER. There remains 11 minutes.

Mr. DURBIN. Mr. President, I have the greatest respect for my colleague from New Hampshire, and he and I have had many conversations about our views on spending and budget policy.

Although he is critical of the pay-as-you-go approach, which the Democrats have brought to Congress since we came into the majority this year, the fact is, the Republicans, the so-called fiscally conservative party, never, ever initiated pay as you go.

What is ''pay as you go''? It is something with which every family is familiar. If you want to buy a new washer and dryer, do you have the money? If you do not have the money, you do not do it. You may borrow the money, but we are trying to avoid that.

Pay as you go says, if you want to spend new money on new projects, you either have to raise taxes or cut spending. If you want to cut taxes, you either have to increase another tax or cut spending. It is just that simple.

The Republicans, the fiscally conservative party, or so they brand themselves, did not initiate this. The Democrats did. And we are living by it.

The Senator quarrels with some of the conclusions on various bills. But he has to concede, I hope, the point that we are doing this, and doing it in a fiscally responsible way, and it is painful. It is not easy. It was far easier when the Republicans controlled Congress. They gave tax cuts to the wealthiest people in America, adding to our deficit without cutting spending on programs, without increasing other taxes. They gave tax cuts.

When the Senator from New Hampshire says that when the President asked for $196 billion for the next year for the war because he wants to stand behind our soldiers, he expresses a partial sentiment we all share. We don't want to shortchange the soldiers in any way. But isn't the fiscally and morally responsible way to fund a war to pay for it? The documentary of Ken Burns on World War II talked a lot about the sacrifices Americans made to fund the war. It ran up quite a debt. Families across America bought U.S. savings bonds to help fund the debts of America. It was a special effort, a special sacrifice. This President, this administration has never asked for that level of sacrifice from anyone other than the soldiers and their families.

Instead, what he has said to the rest of America is: While we wage a war that costs almost $200 billion a year, $10 or $12 billion a month, we are going to give tax cuts to the wealthiest. So when my colleague from New Hampshire comes to give us pious exhortations about fiscal soundness, I am at a loss to understand how he can continue to vote for the war and $196 billion that is not paid for. If he believes we have to pay as you go, why wouldn't he want to pay for the war as we go? Clearly, he makes an exception.

When the President receives a bill such as the Labor-Health and Human Services legislation, which has $10 billion more in spending than he asked for, he says he will veto it. What is included in that $10 billion? For the first time since the President came up with the notion of No Child Left Behind, we are going to make a massive investment to help school districts get test scores up, improve the education of kids. The President vetoes it. He voted for the test. He voted for the critique of schools but would not provide the resources for those schools to improve test scores.

There is also money in there the President didn't ask for, for medical research at the National Institutes of Health. I would take that one on, on the stump, with the President any day. Let's have a debate on that. Should we spend $196 billion on the war in Iraq or should we at least put enough money in to improve medical research at the National Institutes of Health? It is a small amount in comparison. Most Americans believe as I do, that a strong America begins at home. It begins at home with health insurance for our children, a bill the President vetoed. It begins at home with better schools for our kids, which the President is about to veto on the Labor-Health and Human Services legislation.

It begins at home when we realize medical research is important for all of us. None of us knows what tomorrow may bring. We want to know if we are stricken, or someone in our family, we can count on the best minds in America looking for the cures. The President says we can't afford that. He is going to veto it.

Shortly, we will vote on something called the Water Resources Development Act, $23 billion over 5 years and $23 billion is a lot of money. How does it compare with the war that costs us $12, maybe $15 billion a month? The $23 billion for water resources development is money invested in America to build our infrastructure, the levees, the locks and dams, the things that are critical for America to function and succeed. The President says we can't afford that. He vetoed the bill. I hope we override it.

In the meantime, I hope the Labor-HHS bill, the one that includes money for No Child Left Behind and medical research, is a bill the President will reconsider and sign. If he does not, I hope on a bipartisan basis we will override that veto as well.

This President, for 6 years, never discovered his veto pen. Now he has found it. He has used it to veto our efforts to change direction in the policy in Iraq. He has used it twice to veto stem cell research to fund cures for diseases which threaten Americans and their families. He has used it to veto the Children's Health Insurance Program. He now threatens to use it to veto money for our schools. A pattern is emerging. This President, when he gets up in the morning and looks out the window of White House, sees Iraq. He does not see America and the American families who count on us, those families going to work every day who don't have health insurance for their children, those families sending their kids to school who are disappointed with test scores and believe their kids can do better and we can do better, and those families who want the American economy to be strong, creating good-paying jobs here at home that cannot be outsourced.

The President's veto pen is defining his Presidency. As it comes to a close, it is telling us his priorities. His priority is a war, a war that has cost us over $500 billion and, even more importantly, almost 3,900 American lives. America's priorities are not only to be safe and secure but also to make sure this economy grows and the people in America striving for opportunity and for a better day tomorrow have a chance through the programs we are supporting in this legislation.

I yield the floor.

The PRESIDING OFFICER (Mr. AKAKA). The Senator from South Dakota is recognized.

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

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

Mr. THUNE. Mr. President, I have been listening with interest to my colleagues from New Hampshire and Illinois talk about tax cuts and pay-go and all those issues we deal with on a daily basis. It strikes me that the thing that seems to get lost by our colleagues on the other side when it comes to reducing taxes is that when you reduce taxes, you actually get not less government revenue but more. History has proven that. It has proven it time and time again, going back in the 1920s under Harding, the 1960s under Kennedy, the 1980s under Reagan, and currently. If you look at what has happened, when you reduce the marginal income tax rate and the capital gains tax rate, you actually not only see the job growth we have seen—as my colleague from New Hampshire noted, 8.7 million new jobs—22 consecutive quarters of economic growth, lowest unemployment numbers in a generation, but you also see a dramatic increase in Government revenues.

It was predicted, at the time of the tax cuts in 2001 and 2003, that all this money was going to be lost because somehow the Government wasn't going to have enough money to do things because we were going to reduce the tax burden on the American people. What has happened is the exact opposite, which has been a historical fact, that when you reduce taxes on hard-working people, they take the realization of paying less taxes, they reinvest that, create more jobs, and you get more Government revenue.

If we look at the last several years, we have seen Government revenues coming into the Treasury increasing 12 percent, 13 percent, this year 9 percent, at least the last numbers I had. But the fact is, revenues have been going up. We reduced the tax burden on the American people. Everybody says: But it just helped those on the wealthy end of the income spectrum. Again, I submit that when you reduce marginal income tax rates, as we did, everyone on the income scale benefits. People on the lowest income scale went from a 15-percent marginal income tax rate down to 10. They benefited directly as a result of the tax relief enacted by the Republican majority.

Frankly, this is a philosophical debate that goes on in the Congress year after year after year, but we happen to believe that when you allow the American people to keep more of what they earn, allow them to invest that in their family and their community, you get a much better outcome than when you send your dollars to Washington, DC, and allow the Government to spend it for them. When you allow the American people to put their dollars to work, you create more jobs, grow the economy, and you see the dramatic expansion in Government revenues that we have seen over the past 3 years.

When it comes to the capital gains tax rate, that again has led not to less Government revenues but to about a 65-percent, somewhere in that neighborhood, increase in capital gains tax revenues coming into the Federal Treasury over the period since 2004, when the 2003 tax cuts were enacted. Since that period, we have seen a dramatic increase in capital gains tax revenues.

Everybody can put up their charts and talk statistics, and we have a lot of that in Washington, but you cannot create facts. You are entitled to your opinions but not your own set of facts. In this case, the facts are clear. That is, when you reduce marginal income tax rates and capital gains tax rates, the American people respond. We have seen more Government revenue as a result.

FOCUSING ON IMPORTANT WORK

Mr. THUNE. Mr. President, the clock is ticking on calendar year 2007. There is not a lot of time left. We have a pile-up of legislation that has yet to be enacted. If you look at the accomplishments so far in this first year of the Democratic majority, there has been very little accomplishment and very little in terms of milestones. In fact, if you look at the milestones, they are not milestones you would be very proud of. It seems to me much of the agenda in the Congress in this last year has been about embarrassing the President or creating showdowns with the President or satisfying some liberal special interest group, rather than doing the work of the people. That is the cause of the low approval ratings the American people have of the Congress.

Part of the agenda has been, we have a President whose approval ratings are not that good. Let's see if we can create showdowns with him and try to embarrass the President. The reality is, the President's approval ratings are about three times that of the Congress. One of the reasons the American people have a low opinion of the Congress is because of all the partisan fights and a lack of a record of accomplishment and not focusing on the problems they want to see solved. Those are the challenges and the problems that face this country going forward.

When Congress has an 11-percent approval rating, our colleague, Senator JOHN MCCAIN, says: When you get to that low a level of approval rating, you are talking about paid staff and blood relatives. Regrettably, that is probably the case. But nevertheless, we can change that by focusing on the important work of the American people and actually moving the agenda forward.

By way of example, because I do think numbers are important, I am a big believer in facts and numbers. President Reagan used to quote John Adams who said: Facts are stubborn things. If you look at fiscal year 2008, we have zero spending bills signed into law. In fact, it has been 20 years since we reached this time on the calendar without a single spending bill having been sent to the President for signature. It has been 20 years since it took

this long to confirm an Attorney General. SCHIP is a good example. They knew that was going to be vetoed. It was vetoed. They had the veto override vote and it was sustained. So they came up with a new SCHIP bill which actually spent more money but covered fewer children than the original bill sent to the President.

My point is, many of these initiatives that are being undertaken by our colleagues on the Democratic side are designed to prove a political point, not to solve problems. The American people want us to solve problems, which is precisely why the approval ratings of the Congress are so low.

The Labor-HHS appropriations bill which was passed by this body yesterday is $9 billion over budget. There are 33 States with operating budgets that are lower than the $9 billion in overspending contained in the Labor, HHS, and Education appropriations bill that passed the Senate yesterday.

These are some pretty staggering numbers when we think about it. We have $3 gasoline, oil at $93 a barrel, and no Energy bill. Again, it is bogged down in the Congress, languishing because of the political bickering going on back and forth.

We have the alternative minimum tax that is going to kick in this year. Only 54 days until 2008, and we still don't have a solution to that. On the other hand, in terms of numbers, we have had 57 votes in the Congress, the House and the Senate, on Iraq. I have to say, because I serve on the Armed Services Committee, what is going on in Iraq and our national security, there is nothing more important when it comes to the role of Government than to protect the American people. But there has been a lot of political debate about Iraq over the course of the past 10 months, much of which was designed to promote showdowns with the President, to create political opportunity for Members on the other side to earn points with liberal interest groups. That is 57 votes on Iraq in the last 10 months at the same time that we don't have an Energy bill, at the same time that we haven't passed a single appropriations bill, that we haven't confirmed an Attorney General, that we have FISA legislation, the lack of passage of which is inhibiting our ability to catch bad people and terrorists trying to do harm to the American people.

These are all numbers and facts that I believe the American people want to see this Congress address, rather than engaging in political arguments that are designed for no other reason than to prove a political point or to embarrass the administration or to satisfy a liberal special interest group.

I submit we still have time. We don't have a lot of time, but it would behoove the Congress and the Democratic leadership in the Senate and House to work together to try to solve the problems the American people care about, rather than engaging in more political arguments, rather than sending the President bills the Congress knows he is going to veto.

Let's get after some of these more important issues, such as the high cost of energy, passing appropriations bills that control Federal spending and I think adhere to the American people's sense of fiscal responsibility and a belief that the American Congress ought to be responsive to the American people by being responsible in the use of their tax dollars.

So I see our time is winding up in terms of morning business, and I know the WRDA bill is pending before the Senate. We are going to take that up. But I simply hope in the remaining days of this calendar year, 2007, we can actually do something that will create a record of accomplishment for the American people rather than continuing to have the Democrat majority in the Senate trying to make political statements and score political points.

With that, Mr. President, I yield my time.

Mr. LOTT. Mr. President, parliamentary inquiry: What is the time situation now for the body?

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. If the Senator will withhold, morning business is closed.

WATER RESOURCES DEVELOPMENT ACT OF 2007—VETO

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of the veto message on H.R. 1495, which the clerk will report.

The assistant legislative clerk read as follows:

Veto message to accompany H.R. 1495, a bill to provide for the conservation and development of water and related resources, to authorize the Secretary of the Army to construct various projects for improvements to rivers and harbors of the United States, and for other purposes.

The PRESIDING OFFICER. The Senator from Mississippi is recognized.

Mr. LOTT. Mr. President, I ask unanimous consent that the vote on the veto message occur at 11:45, with half of that debate time equally divided between Senators BOXER and INHOFE and the remaining half under the control of the Republican leader.

This has been approved by both sides.

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

Mr. LOTT. Mr. President, if I could, I will take a couple minutes at this time.

I have been watching the Congress pretty closely now for 35 years as a Member of the House and the Senate, and I have been involved in end of sessions 19 times in the Senate, but I must say, it is about as big a mess as I have ever seen. We are not going to have a single appropriations bill down to the President signed for the whole year, even by the end of this week.

The bill that is on the way, the Labor, Health and Human Services, and Education appropriations bill, which is $9.8 billion above what the President asked for and has lots of problems, is going to be vetoed, and will be back up here next week. Hopefully, we will find a way before this week is out to pass the Defense appropriations bill so our men and women will know they are going to get the assistance they need, the equipment they need, the protections they need. That would be the first appropriations bill to get to the President that he might actually sign.

It is true right across the board. All year long, it has been about political positioning. It has all been about fighting over Iraq. There are so few things where we have come together and worked together and gotten something produced.

Thank goodness a couple weeks ago we did the Amtrak authorization bill. I have urged, all year long: Let's quit finding issues we can fight over, and let's find some issues we can work together on, get bipartisan agreements on that would help the American people.

I believe, actually, the WRDA bill, the Water Resources Development Act, is one of the few things we can look at and say we did something good for our country and for our constituents this year. It is bipartisan. It has been laboriously developed over the last 5 or 6 years—a long time coming.

It is one of the few areas where we actually do something constructive, where you can see physically something the Federal Government has done. It creates jobs. It provides safety and protection, safe drinking water. It is one of the only bills that I think actually produces a positive result.

I have always been proud of the Corps of Engineers because the Corps of Engineers is one of the few Government entities that actually does something, produces something—something you can see and feel and helps the quality of life. We are always involved in social welfare programs, giveaway programs, and we are always trying to find a way to raise taxes and do things that are not good for our constituents. This one actually does something good.

Sure, there are disagreements. There are some programs in here that probably are not sufficiently justified. I know from past experience, almost every President has opposed this type of bill. I remember Jimmy Carter did not like the Corps of Engineers. We had a fight with him over river projects, water projects, the same thing with George H.W. Bush, the same thing with Bill Clinton. He had people in his administration, in the Office of Management and Budget—oh, they didn't like water resources projects.

Here it is again. The President has vetoed this bill. So I must say, I am not boasting about it, but I have no qualms about saying the President's views notwithstanding, I will vote to override his veto on this legislation.

This is about flood protection. This is about water and sewer projects. It is about doing something about water and the proper salinity in the Gulf of Mexico. These are good, deserved, justified projects that should go forward.

So I will vote to override the veto. Perhaps the President did the right thing in some respect, but I buy the argument it is an authorization. It is not an appropriations bill. I have always in the past found that if you get a project authorized and then you go get the appropriations, you do not have a problem. Well, we kind of got away from that. We have gotten into difficulty. But I understand why the President vetoed it. He is trying to hold the line on spending. Congratulations. That is good. I am going to be supporting him on most of his vetoes.

I cannot imagine any vetoes that might be forthcoming where I would not support the President—beyond this. But in this case, I believe this bill is in the best interests of the country. I know it is very beneficial to my State. A quarter of the State probably would not exist if we did not have flood control projects. My State is a poor State. We are still struggling to make sure people have safe drinking water, so they do not have to haul the water to their house, believe it or not, here in 2007. Ports and harbors are critical for the future economic development and competitiveness of this country in a global economy.

So I look forward to having a brief discussion. I look forward to the vote. I will vote to override the President's veto.

I yield the floor.

The PRESIDING OFFICER (Mr. BROWN). The Senator from Louisiana is recognized.

Mr. VITTER. Mr. President, I ask unanimous consent to speak for 2 minutes on the Republican side.

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

The Senator is recognized.

Mr. VITTER. Mr. President, I, too, stand in strong support of overriding President Bush's veto of the WRDA bill. I do so because this WRDA bill is absolutely crucial for our entire country and nowhere more so than my State of Louisiana.

This is a real hallmark in our continuing recovery from the devastating 2005 hurricanes—Hurricanes Rita and Katrina. This is an enormously important step in that continuing recovery. That is true for many reasons, but the most fundamental is a simple one. Unfortunately, it is a fact many people forget. So much of the devastation to the Greater New Orleans area, in particular, immediately following Hurricane Katrina, was not because of an act of God. It was manmade. It was not because of the size and ferocity of Hurricane Katrina, as bad as that was. It was because of fundamental flaws and mistakes made by the Corps of Engineers in building our levees in Greater New Orleans.

Now, that does not explain all of the flooding, by any means. It does explain at least 70 percent of the catastrophic flooding of the New Orleans area. So that is why this authorization bill, to move forward on crucial Corps of Engineers projects, and to do it right, with proper oversight from outside, independent experts, is so very important.

One of the first things I did coming to the Senate in early 2005 was to go to the EPW Committee to begin my work on this WRDA bill. I worked relentlessly on it there with my colleagues and then followed the bill to the conference committee. So this is a very important, momentous step in our recovery with regard to closing MRGO, with regard to fundamental coastal restoration, with regard to a true 100-year level of protection, with regard to important projects in other parts of the State, the Port of Iberia, protection for Vermilion Parish, work in the Calcasieu River, bank stabilization in the Washita and Black Rivers.

Therefore, I urge my colleagues on both sides of the aisle, let's finish this job. Let's finally get this work done today. Let's override President Bush's veto of WRDA.

Mr. President, I yield back my time and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. VITTER. Mr. President, when the quorum call is resumed, I ask unanimous consent that the time be divided equally between the two sides.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. VITTER. With that unanimous consent request having been granted, Mr. President, I again suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. DOMENICI. Mr. President, I ask unanimous consent that the quorum call be rescinded.

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

Mr. DOMENICI. Mr. President, I ask unanimous consent to speak for 2 minutes on the override.

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

Mr. DOMENICI. I thank the Chair, and I thank the Senate.

I came here to just spread the RECORD with a couple of minutes of my observations about the WRDA bill and to suggest that the President of the United States made a mistake. This bill should not have been vetoed. This bill is totally an authorizing bill.

Now, I don't want to say he made a mistake and then talk technical language that nobody understands, but in the Congress, we have a way of spending money. We have a way of spending money called appropriations, and we have a way of spending money that is an entitlement, such as Social Security or veterans' pensions, and then we have another way where we just authorize a program to be funded later, if at all—to be funded later, maybe—and that is an authorization bill.

This WRDA bill is the result of a 7-year effort on the part of the committee of jurisdiction to put together a composite of all of the public works projects from around the country so that when somebody seeks to get them funded, they can say they have been authorized by the Congress. However, that doesn't mean they will ever get funded. If we don't have enough money, the programs that are included in WRDA won't get funded, and if they get funded, there will be an opportunity for a President to veto a bill that contains the money, the expenditures.

So as I see it—now I am speaking to the President of the United States, not my friend in the chair—Mr. President: You should have talked to some of us who have been here and who would have told you that no matter what numbers you put down on this bill, we don't spend any money unless and until we appropriate it, and we may never appropriate it. Many bills are authorized and the Congress never gets around to saying we have enough money to pay for them.

So I am going to vote to override the President so we will have this authorizing bill called WRDA on the books for those projects that from time to time Members will say to the Appropriations Committee: It is time to spend money for this and it is time to spend money for that, or the appropriators may say: We don't have enough money for any of it.

For instance, in my State of New Mexico, there is a provision for a park along the Rio Grande River where we have a greenbelt of sorts, and it will be a rather startling park for the city of Albuquerque if it is ever done. But it may never get done. It is just authorized by the WRDA bill after years of work. My office worked very hard on that program for a long time, and we were fortunate to get it in this bill, and maybe someday we will get to fund it.

So I say to the President of the United States: I assume you understand you will get overridden on this bill, and I would assume rather handsomely. Many of us would listen to you if you are talking about spending too much money, but this one is not that; it isn't spending too much money because it doesn't spend any money. It may never spend any money. But when it does, those will be the opportunities for vetoes or for people to argue that you are spending too much.

I thank the Chair, and I thank the Senate for listening.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

The Senator from California has 7 minutes remaining.

Mrs. BOXER. Thank you very much.

Mr. President, Senator INHOFE will be here shortly. We have both been in a hearing on global warming, and on that one, we don't see eye to eye, but on this override, we very much see eye to eye.

● Mr. MCCAIN. Mr. President, I would like to express my strong support for the President's veto of the Water Resources Development Act of 2007, and I urge my colleagues to oppose the attempt to override this veto. This legislation is fundamentally flawed, authorizing nearly 1,000 new projects without any method for prioritizing the needs of our national water infrastructure.

When the House and Senate went to Conference on WRDA, the Senate bill totaled $14 billion and the House bill $15 billion. Somehow this resulted in a final conference report totaling $23 billion and 900 new projects—300 more than either of the House- or Senate-passed bills had included. These items are just further additions to the growing backlog at the Corps of Engineers.

Buried among these projects are valid infrastructure needs including helping to protect the gulf coast against future hurricanes. However, as stated in the November 5, 2007, Washington Post editorial entitled ''Fiscal Plunge: A vetoed $23 billion water bill is not worth saving,'' ''The bill would indeed authorize about $1.9 billion for coastal ecosystem restoration and protection in Louisiana to help the state rebuild its defenses against hurricanes. The president supports that; he just thinks that Congress could have authorized it without also larding on billions of dollars' worth of economically and environmentally questionable projects.'' I will ask that the editorial be printed in the RECORD immediately following my remarks.

I know that many are arguing that we have to pass legislation in order to begin or complete important water infrastructure projects throughout the United States. However, I believe that we should be passing a bill that will authorize legitimate, needed projects without sacrificing fiscal responsibility.

In August, the Senate passed the Honest Leadership and Open Government Act of 2007 with the supposed intention of bringing integrity to the system of earmarking appropriation and authorizations bills. Unfortunately, within 10 days of its enactment, the Senate approved the conference report for WRDA that is just more of the same earmarks and then some. Prior to congressional consideration of the conference report, the Director of OMB and Assistant Secretary of the Army for Civil Works sent a letter to Congress stating that the excessive price and number of projects in this legislation would result in a Presidential veto. I am pleased that the President followed through on that statement and rightfully vetoed this water resources bill full of pork projects and unchecked Government spending.

When issuing his veto of the Water Resources Development Act on November 2, 2007, the President stated, ''This bill does not set priorities. The authorization and funding of Federal water resources projects should be focused on those projects with the greatest merit that are also a Federal responsibility . . . This bill promises hundreds of earmarks and hinders the Corps' ability to fulfill the Nation's critical water resources needs . . . while diverting resources from the significant investments needed to maintain existing Federal water infrastructure. American taxpayers should not be asked to support a pork-barrel system of Federal authorization and funding where a project's merit is an afterthought.''

During Senate consideration of this bill, Senator FEINGOLD offered an amendment that I was pleased to cosponsor that would have established a system to give clarity to the process used for funding Corps projects. Of course, that amendment was not adopted because this Congress values pet projects over national priorities. I believe that this Congress has a duty to protect taxpayers' dollars and ensure that they are used for the most cost effective and critically needed projects. This bill fails to provide for any clarity or prioritization in the funding process and would result in further confusion and irresponsibility in how Corps projects are funded.

I urge my colleagues to oppose the attempt to override the President's veto of the Water Resources and Development Act of 2007.

Mr. President, I ask unanimous consent that the editorial to which I referred be printed in the RECORD.

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

FISCAL PLUNGE: A VETOED $23 BILLION WATER BILL IS NOT WORTH SAVING.

Ah, the theatrics of Washington. On Friday, President Bush vetoed the Water Resources Development Act (WRDA), a bill that would authorize $23 billion in spending on water projects by the Army Corps of Engineers. Lawmakers of both parties were critical. Senate Majority Leader Harry M. Reid (D-Nev.) said that the veto shows ''President Bush is out of touch with the American people and their priorities.'' According to Mr. REID, one of 81 senators to vote for the WRDA (it passed the House 381 to 40), the bill would ''strengthen our environment and economy and protect our natural resources'' and fund projects ''essential to protecting the people of the Gulf Coast region'' from hurricanes. The veto is ''irresponsible,'' Mr. REID declared.

After almost five years in which he did little to check the spending of a Republican-controlled Congress, Mr. Bush is a bit late in trying to recover his party's reputation for fiscal conservatism. But even discounting for the White House's political posturing, this is hardly an example of an ''irresponsible'' veto. To the contrary, that word might better be applied to the WRDA itself. The bill would indeed authorize about $1.9 billion for coastal ecosystem restoration and protection in Louisiana to help the state rebuild its defenses against hurricanes. The president supports that; he just thinks that Congress could have authorized it without also larding on billions of dollars' worth of economically and environmentally questionable projects. And he's right: After all, the Senate and the House versions of the legislation tipped the scales at $14 billion and $15 billion, respectively. Then, in conference committee, lawmakers added more pet projects to bring the total up to $23 billion.

The silver lining in the bill is that it takes some tentative steps toward reforming the Army Corps, providing for independent review of projects worth more than $45 million. But this modest change is much weaker than what the overhaul reformers in the Senate had advocated. Thus Mr. Bush's valid concern, expressed in his veto message, that the WRDA ''does not set priorities'' among the $58 billion in projects authorized in past bills. Indeed, though it has a high nominal price tag, the WRDA only promises projects, essential and otherwise, that have to compete for the $2 billion the Army Corps spends each year. So the WRDA is largely a hollow political exercise. Given the overwhelming margins by which both houses passed the bill, though, Mr. Bush's veto is almost certain to be promptly overridden. This time, Congress's empty gesture will trump the president's futile one.●

Mr. MCCAIN. I think it is important to note the historic significance of what I think is about to happen here because only 106 times in the entire history of the United States of America has the Congress overridden a Presidential veto—only 106 times. The first time was in 1845 over the funding of military equipment. Then-President Tyler bypassed Congress and tried to buy some equipment that Congress had not approved of. Congress was able to stop that when his veto was overridden on the bill.

The point is, there is, in our Constitution, a separation of powers and a balance of powers. I think when there is overwhelming support across party lines, overwhelming support from our communities from the bottom up, to pay attention to our infrastructure, to pay attention to the needs of our economy, to pay attention to the needs of the American people—when there is overwhelming bipartisan support, why would a President cast a veto?

As I asked rhetorically before the President vetoed this WRDA bill, I said: Do we have to fight about everything? Aren't there some things on which we can agree? But it was not to be. I think if, in fact, we do override this veto—which I fully expect we will do, but I never count anything until it is done—I think what we are saying to the President is, he should respect us, he should respect the Senate, the House, and the American people. We were elected too. We are close to the people. We know what their needs are.

If, in fact, we do override this ill-advised veto, the American people will win today.

This water resources bill is 7 long years in the making. If we override this veto, Mr. President, we are fulfilling a promise to the people of Louisiana. We promised them, after Katrina, we would rebuild. The President went there and said:

I will stay as long as it takes to help citizens rebuild their communities.

I say to the President: When you vetoed this bill, you stood up before the people of Louisiana and said: Sorry. One flick of the veto pen, and the President turns his back on the people of the gulf coast.

I think testimony to that fact was given by Senators LANDRIEU and VITTER. The fact is, Congress is stepping in to do the right thing today. We are a separate but equal body, and we are showing across party lines that no matter who the President is, there are some moments in time when he needs to come to the table and work with us. This was one of those times because the WRDA bill is going to help ensure America's water infrastructure and flood control needs are met.

Again, it puts the gulf coast on the path to recovery. But it does other things. In my State, it is going to finally take care of our problems in Sacramento, where 300,000 people, potentially, could be harmed and hurt and damaged because we have not done what we had to do to protect them. We do it in this bill.

Yesterday, we heard from Senator BILL NELSON about the major restoration of the Everglades that is in this bill—another promise made by Republicans and Democrats alike. The Everglades is a national treasure—actually, a worldwide treasure. Yet we go to communities all over this Nation, from sea to shining sea, and we look at the communities and say that we will work with them on flood control, on making sure goods can move through our ports, and on recreation.

The Corps and the BLM run many recreation areas that see millions of visitors every single year. So it is about recreation, commerce, flood control, and it is about environmental restoration.

It enacts the most sweeping reforms for the Corps in more than 20 years. I know Senator FEINGOLD did not believe we did enough Corps reform. I respectfully say to Senator FEINGOLD that we went very far. As a matter of fact, I believe we brought more independent review to this process because before—I agree with the Senator—the Corps was just going off on its own. So communities across our country have waited long enough for these vital projects.

As Senator INHOFE said yesterday—and I see he is here now—this is an authorization bill. This doesn't spend a penny, but it is very important because it says we believe these projects are worthy of funding. Then those projects will go through a very tough appropriations process, and every one of these projects, as far as I know, draws on local funding, or State funding, and Federal funding.

This WRDA bill comes from the people—from the people up. When I go to little communities back home—I went to one in Napa, where there is a flood control program; it is essential. It is a senior citizen retirement community, and our folks are frightened because they see what happens when California experiences these incredible shocks of nature, such as the fires, and now we are on the precipice of doing the right thing.

I hope we override this veto. I look forward to the remarks of Senator INHOFE.

Mr. INHOFE. Mr. President, I thank Chairman BOXER for all of her work and efforts. One thing that is kind of interesting about this is, it shows you this bill has the support of everyone, philosophically, across the whole scope. One of the ratings that came out recently rated me as the No. 1—ACU rating—conservative Member of the Senate, and Senator BOXER was No. 97. So she is a proud liberal, I am a proud conservative, and we proudly both support this bill. That is an accurate statement.

Let me say to Senator BOXER and the Democrats who have been so supportive, they have done a good job talking about what we have done over the last 7 years. This is 7 years of work, Mr. President. It is one we have all worked together on. To the right, to my conservative friends, let me say the President cast his veto. I think the veto was ill-advised. When the President comes through with his vetoes of big spending bills that exceed the budget—maybe SCHIP when it comes in—I will support sustaining his veto, or when Labor-HHS comes along that will be over and above the budget, I will be one of the first ones on the floor to support the President in sustaining the veto.

Last night, we had a lot of time. We weren't confined to a short period of time. I had an opportunity to do something I enjoy, and I had some kind comments about it from some of my Democratic friends. I was giving the history, back to 1816, of authorization versus appropriations. It is interesting because right now we are continuing to make that same argument. I think that is the strongest argument in favor of this bill. What is at stake is the authorization process.

I am going to ask my conservative friends to support this override for two reasons. First of all, as was said by many before me—and I have to say it again—it doesn't spend a cent. This is not a spending bill. If your idea is it is out of range, and you cannot support it because it spends too much, that is the wrong way to look at it. We have worked 7 years to put together this bill. Mr. President, there are 751 projects in the bill, and each one has gone through an authorization process, whereby we have received a report from the Corps of Engineers on each one, and it has taken a long time to get this done.

One of the critics said last night: Why should we authorize more? We have not appropriated all that we have authorized in the past. That is my point. We have 751 projects and probably, judging from the past, we will only authorize maybe 70 percent of those, and they would not be authorized at the highest level. So that is why we have the discipline in place to keep excessive spending under control.

Let's just say—and it will not happen because we are going to override the veto—we did not override the veto and we don't have this bill. There is no way of coming back with a different bill. It cannot be done procedurally. We know that. We would be operating to appropriate for what has not been authorized. That absolutely would not work. It takes all of the preparation, criteria, and reports out of the process.

So, anyway, we don't know how many of these will ultimately be funded. I have to tell Senator BOXER I will be down here opposing some of the things we are authorizing today because that is the way the system works. That is where we have to have fiscal discipline. We have rule XVI, which says, if the appropriators come out and appropriate money that exceeds that which we authorize, it will take a 60-vote point of order margin on rule XVI. I will come down and personally lodge that point of order.

So I say this: This bill does offer the maximum fiscal discipline, and I ask my conservative friends to join us in this veto override, and then join me in sustaining the vetoes on spending bills. Again, this is not a spending bill.

Mr. President, I understand the yeas and nays are automatic.

The PRESIDING OFFICER. The Senator from Oklahoma has 3 minutes remaining.

Mrs. BOXER. If my colleague wouldn't mind, I ask unanimous consent to have printed in the RECORD a list showing nationwide support for overriding this Presidential veto, including national business and labor groups, agricultural groups, national water and infrastructure groups, State and local government support, national conservation groups, and local agencies and organizations.

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

NATIONWIDE SUPPORT FOR OVERRIDING THE PRESIDENT'S VETO OF WRDA

NATIONAL BUSINESS AND LABOR GROUPS: United States Chamber of Commerce, AFL-CIO, The Teamsters Union, National Construction Alliance, United Association of Journeymen and Apprentices of the Plumbing and Pipe Fitting Industry of the United States and Canada, United Brotherhood of Carpenters and Joiners of America.

AGRICULTURAL GROUPS: American Farm Bureau Federation, National Corn Growers Association, American Soybean Association, Corn Refiners Association, CropLife America, National Association of Wheat Growers,

National Council of Farmer Cooperatives, National Farmers Union, National Grain and Feed Association, National Oilseed Processors Association, The Fertilizer Institute, United Egg Producers.

NATIONAL WATER AND INFRASTRUCTURE GROUPS: National Waterways Conference, The Waterways Council, Water Resources Coalition, American Electric Power, American Society of Civil Engineers, Associated General Contractors of America, American Association of Port Authorities, American Public Works Association, National Association of Flood and Stormwater Management Agencies.

STATE AND LOCAL GOVERNMENT SUPPORT: Charlie Crist, Governor of Florida, Kathleen Blanco, Governor of Louisiana, Tom Leppert, Mayor of Dallas, Metropolitan Water Reclamation District of Greater Chicago, Southeast Water Coalition, City of Stamford, Connecticut, City of St. Helena, City of Alameda, City of West Sacramento, Morgan Hill Chamber of Commerce, San Jose Silicon Valley Chamber of Commerce, The Board of Supervisors of Marin County, The Board of Supervisors of Santa Clara County.

NATIONAL CONSERVATION GROUPS: The Nature Conservancy, National Audubon Society, National Parks Conservation Society, Ducks Unlimited.

LOCAL AGENCIES AND ORGANIZATIONS: Association of California Water Agencies, Bay Area Open Space Council, California State Coastal Conservancy, East Bay Regional Park District, Friends of Five Creeks, Heal the Bay, Laguna de Santa Rosa Foundation, Pacific Northwest Waterways Association, San Francisco Bay Joint Venture, Santa Clara County Farm Bureau, Santa Clara Valley Water District, Save Mount Diablo, Silicon Valley Leadership Group, Sonoma Land Trust.

Mr. INHOFE. Mr. President, would the Senator from North Dakota like to have a minute or so?

Mr. CONRAD. May I have just a minute?

Mr. INHOFE. Yes.

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

Mr. CONRAD. Mr. President, I come to the floor as chairman of the Budget Committee to simply say this bill doesn't spend a dime. This is an authorizing bill. This bill authorizes projects. That makes them eligible for appropriations. That is all it does. It says to the Appropriations Committee that these projects have been reviewed, and they are authorized by the appropriate responsible committee.

That is the first and necessary step, but it is not the step that can spend a dime. The Appropriations Committee is the only committee here that can actually create spending from this bill. So I think it is very important for people to realize that basic fact.

I thank the Chair, and I thank very much the chairman and ranking member for a very professional job of managing this bill.

Mr. INHOFE. Mr. President, I thank the Senator from North Dakota for his comments. He is exactly right. If there was time, I would repeat some of the things we talked about last night that the Senator from North Dakota was very complimentary on regarding the history of appropriators versus authorizers since 1816.

I believe what is at stake is the authorization system, which I believe is the only discipline we have in the appropriations process.

The PRESIDING OFFICER. All time is expired. The question is, Shall the bill pass over the objections of the President of the United States to the contrary notwithstanding? The yeas and nays are required.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Delaware (Mr. BIDEN), the Senator from New York (Mrs. CLINTON), the Senator from Connecticut (Mr. DODD), and the Senator from Illinois (Mr. OBAMA), are necessarily absent.

Mr. LOTT. The following Senators are necessarily absent: the Senator from Kentucky (Mr. BUNNING), the Senator from Texas (Mr. CORNYN), and the Senator from Arizona (Mr. MCCAIN).

Further, if present and voting, the Senator from Texas (Mr. CORNYN) and the Senator from Kentucky (Mr. BUNNING) would have voted: ''yea.''

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

The result was announced—yeas 79, nays 14, as follows:

[Rollcall Vote No. 406 Leg.]

YEAS—79

Akaka	Feinstein	Murray
Alexander	Graham	Nelson (FL)
Barrasso	Grassley	Nelson (NE)
Baucus	Hagel	Pryor
Bayh	Harkin	Reed
Bennett	Hatch	Reid
Bingaman	Hutchison	Roberts
Bond	Inhofe	Rockefeller
Boxer	Inouye	Salazar
Brown	Isakson	Sanders
Byrd	Johnson	Schumer
Cantwell	Kennedy	Shelby
Cardin	Kerry	Smith
Carper	Klobuchar	Snowe
Casey	Kohl	Specter
Chambliss	Landrieu	Stabenow
Cochran	Lautenberg	Stevens
Coleman	Leahy	Tester
Collins	Levin	Thune
Conrad	Lieberman	Vitter
Corker	Lincoln	Voinovich
Craig	Lott	Warner
Crapo	Lugar	Webb
Dole	Martinez	Whitehouse
Domenici	Menendez	Wyden
Dorgan	Mikulski	
Durbin	Murkowski	

NAYS—14

Allard	Ensign	McCaskill
Brownback	Enzi	McConnell
Burr	Feingold	Sessions
Coburn	Gregg	Sununu
DeMint	Kyl	

NOT VOTING—7

Biden	Cornyn	Obama
Bunning	Dodd	
Clinton	McCain	

The PRESIDING OFFICER. On this vote the yeas are 79, the nays are 14. Two-thirds of the Senators having voted in the affirmative, the bill, on reconsideration, is passed, the objections of the President of the United States to the contrary notwithstanding.

The Senator from California.

Mrs. BOXER. Mr. President, I want to say while colleagues from both sides of the aisle are here how important this moment is. It is very unusual for a Congress to override a Presidential veto. This is only the 107th time it has been done in the history of the country. The first one was in the 1840s. President Tyler tried to buy some military equipment without getting the approval of Congress and that started the first successful override.

Today I think we sent a message, as Republicans and Democrats, to the executive branch. Mr. President, why should we have to fight over everything? We shouldn't have to argue over making sure our infrastructure is strong. I say to Senator INHOFE, whom I don't see on the floor at the moment, but to his staff: Thank you so much for working with our staff. This has been quite an experience. As most of you know, Senator INHOFE and I don't exactly see eye to eye on everything, but on this, we were very much a team.

I thank the majority leader, Senator REID, for his strong support in working with us. I know it was a little annoying when he saw me coming down the hall every time. He sort of ducked, because he knew I was saying: When are we going to do WRDA?

Mr. BYRD. Mr. President, the Senate is not in order.

The PRESIDING OFFICER. The Senate will come to order.

Mrs. BOXER. Mr. President, I thank Senator BYRD. I think it is interesting that he stands up to get order, because he teaches us every day what the Constitution means. The Constitution means that we, in fact, are an equal branch of Government. Today I think we proved that point.

I say to Senator LANDRIEU and Senator VITTER, who isn't on the floor at the moment, but I want to say about Senator LANDRIEU what a fighter she is for her State. This bill fulfills a promise the President made on that very dark and gloomy night when he went out, with the eerie lights behind him, because he was right at ground zero of Katrina, and he said he would keep his commitment to the people of Louisiana; that he would protect them. Yet and still he vetoed this bill.

I say to both Senators from Florida, whom I see on the floor, Senators NELSON and MARTINEZ, how proud I am to have worked with them to make sure we fulfill our commitment to the Everglades. The trip I took with Senator NELSON and his wife, my husband and I, is embedded in my memory forever, and this bill sets us on a course we must follow.

I say to communities all over the country, including my own, we know you have flood control needs, we know you need to keep up with imports and exports and make sure our ports function right. To those who want to preserve the environment, have restoration of the environment, we do that here. So this is a very important bill. The recreation industry is counting on us.

This is one of those rare moments, in a very divided Senate, that we come together. I couldn't be more proud.

In closing, I thank the following staffers, who have worked night and

day: Bettina Poirier, Ken Kopocis, Jeff Rosato, Tyler Rushforth, Andy Wheeler, Ruth Van Mark, Angie Giancarlo, and Let Mon Lee. Also, I thank Senator BAUCUS's staff: Jo-Ellen Darcy and Paul Wilkins; and from Senator ISAKSON's staff, Mike Quiello. I mentioned Senator INHOFE's staff in that recitation of names. Without them, the Water Resources Development Act of 2007 would never be law.

I am proud to advise my colleagues that it is now law. When that last vote was cast, and when our Presiding Officer announced the vote, this bill became the law of the land. We can be very proud it is.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Louisiana.

Ms. LANDRIEU. Mr. President, may I take a moment to thank the chairwoman of this committee again for fulfilling the promise she made to have this bill—that was 7 years in the making—become law. And as of about 10 minutes after 12, eastern time, it did become law.

People in Louisiana and throughout the gulf coast are cheering, dirt is being turned, levees are being built, and wetlands are being preserved. This Congress has kept its word to the people of Louisiana and the gulf coast, and for that this Senator is very grateful.

Again, I thank the Senator from California.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

ENDA

Mr. KENNEDY. Mr. President, last night the House passed the Employment Non-Discrimination Act with a strong bipartisan vote. The House bill prohibits employers from discriminating against workers on the job because of their sexual orientation. It protects Americans from being fired, denied a job or promotion, or otherwise intentionally discriminated against because of their sexual orientation. Although the bill is narrower than many of us had hoped, the House action is still a main step in the long journey toward full civil rights for every American.

In the Senate, I will work to move the Employment Non-Discrimination Act this Congress. The bill that the House passed is being held at the desk, and I am working with leadership to move this bill forward as quickly as possible.

This Nation was founded on the principle of equal justice for all. That noble goal represents the best in America—that everyone should be treated fairly and should have the chance to benefit from the many opportunities of this country. The House action brings us closer to that goal.

Forty-three years ago, President Lyndon Johnson signed into law the Civil Rights Act of 1964. At that time, some in our country were violently opposed to outlawing racial discrimination, and it was very difficult for Congress to reach a consensus. But the best in America, and the best in the Senate, prevailed. My first major speech in this body as a freshman Senator was on that Civil Rights Act. I said then that I ''firmly believe a sense of fairness and goodwill also exists in the minds and hearts'' of Americans, and that laws creating the conditions for equality will help that spirit of fairness win out over prejudice, and I still believe that today.

Since the 1964 act was passed, we have seen enormous progress in this beloved Nation of ours. Civil rights laws giving national protection against discrimination based on race, national origin, gender, age, and disability have made our Country a stronger, better, fairer land. African Americans, Latinos, Native Americans, and Asians have made extraordinary advances in the workplace. People with disabilities have new opportunities to fully participate in our society. The workplace is far more open to women in ways that were barely imagined four decades ago. In countless businesses, large and small, glass ceilings are being shattered. Women and girls have far greater opportunities in the classroom and in the boardroom.

But that progress has left some Americans out. Civil rights is still the Nation's unfinished business. Today, it is perfectly legal in most States to fire an employee because of sexual orientation or gender identity. Many hard-working Americans live every day with the knowledge that, no matter what their talents and abilities, they can be denied a job simply because of who they are. Many young students grow up knowing that no matter how hard they study, the doors of opportunity will be locked by prejudice and bigotry when they enter the workplace.

Although some States have outlawed job discrimination based on sexual orientation and gender identity, in most of the country, workers have no recourse at all if they are fired because simply because of who they are. That is unacceptable, and we have a duty to fix it, and to do so on our watch.

In the past 40 years, our Country has made great progress in guaranteeing fairness and opportunity.

When we passed the Civil Rights Act of 1964, the Voting Rights Act of 1965 and then the fair housing acts of 1968 and 1988, we took courageous steps, and we were proud that the Senate did the right thing each time. We must also do the right thing—the courageous thing—today. In the 1960s, these laws were controversial. But today, none of us, Democrat, Republican, or Independent, would question that they were the right steps to take, and we must take the right steps today.

Over the years, the Senate has recognized time and again the importance of our goal of equal employment opportunity. Even if we have sometimes disagreed about its proper interpretation, there is no division among us that the principle of equal employment opportunity is a core American value.

That is what the Employment Non-Discrimination Act is all about—equal job opportunities for all Americans. By extending the protection of title VII to those who are victimized because of their sexual orientation, we are moving closer to that fundamental goal. No one should be denied a job simply because of who they are.

That ideal is at the heart of the Employment Non-Discrimination Act.

In 1996, we fell one vote short of passing the bill in the U.S. Senate. In the decade since, public support for outlawing such discrimination has only grown stronger. Now that the House has acted, I hope that we will be able to finally succeed in the Senate in passing the Employment Non-Discrimination Act this Congress, and I look forward to the coming debate.

America stands for justice for all. Congress must make clear that when we say ''all'' we mean all. America will never be America until we do.

FARM, NUTRITION, AND BIOENERGY ACT OF 2007

The PRESIDING OFFICER. The clerk will report the pending business.

The assistant legislative clerk read as follows:

A bill (H.R. 2419) to provide for the continuation of agricultural programs for fiscal year 2012, and for other purposes.

Pending:

Harkin amendment No. 3500, in the nature of a substitute.

Reid (for Dorgan/Grassley) amendment No. 3508 (to amendment No. 3500), to strengthen payment limitations and direct the savings to increased funding for certain programs.

Reid amendment No. 3509 (to amendment No. 3508), to change the enactment date.

Reid amendment No. 3510 (to the language proposed to be stricken by amendment No. 3500), to change the enactment date.

Reid amendment No. 3511 (to amendment No. 3510), to change the enactment date.

Motion to commit the bill to the Committee on Agriculture, Nutrition and Forestry, with instructions to report back forthwith, with Reid amendment No. 3512.

Reid amendment No. 3512 (to the instructions of the motion to commit to the Committee on Agriculture, Nutrition and Forestry, with instructions), to change the enactment date.

Reid amendment No. 3513 (to the instructions of the motion to recommit), to change the enactment date.

Reid amendment No. 3514 (to amendment No. 3513), to change the enactment date.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. Mr. President, for the benefit of all Senators, we are now back on the farm bill. The farm bill was laid down 2 days ago, on Tuesday. We have asked the other side if they want to offer amendments, but we have seen no amendments. We have one amendment pending. The Grassley-Dorgan or Dorgan-Grassley—I don't know which came first on it—amendment is pending. But we have heard from the leader on the other side that they want to offer amendments.

We are here. We are on the farm bill. We have asked for amendments, and in the intervening 48 hours, or 2 days since we laid the bill down, I have not seen one amendment from the other side that has been proffered to be taken up. So here we sit. We are trying to get a handle on how many amendments there will be, trying to reach some agreement, as we always do, to have a package of amendments that we could go to today and tomorrow, spill over into next week, and then reach some agreement, as we always do around here, on how many amendments on their side, on this side, reach an agreement, get a time limit set up on these amendments, and then get to a finish on the farm bill I hope sometime next week before we leave for Thanksgiving. I know there is some other business the majority and minority leaders probably want to conduct next week, but we have to get this farm bill done. It is a good bill.

I remind my fellow Senators and others who may be watching that this farm bill passed the committee unanimously. There was not one vote against it. It is a bipartisan bill. I think regionally it is a balanced bill, for all the regions of the country. I think it addresses the real needs of our farmers and ranchers, as well as the other titles of the farm bill that are encompassed in the farm bill. Energy—we have put a lot, again, into promoting biofuels and bioenergy. In conservation, there are big increases for conservation all over this country. In research, we have money for continuing a strong, robust research program. In nutrition, we have met our obligations to the neediest in our society, providing substantial increases in the Food Stamp Program in terms of the benefits and indexing them for inflation, making sure we have more money for the Emergency Food Assistance Program, for our food banks around the country.

In all the different areas that are covered by the farm bill, I think we have met our obligations to move ahead. We have done so in a very fiscally responsible manner. This farm bill meets all the pay-go requirements we instituted here in the Senate earlier this year—that we would not increase the deficit but that we would pay for things by finding offsets in other areas. The Finance Committee met, and the Finance Committee came up with some loophole closing, some tax collections. I daresay there is not any increase in taxes; it is simply going after taxes that are already owed but are not being collected.

I commend both Senator BAUCUS and Senator GRASSLEY and all the members of the Finance Committee for their help. With their help, we were able to put in a disaster program for the farm bill, a new disaster payment program—much better than what we have ever had in the past, I would add. Also, we were able to get some funding for some conservation programs and some of the energy programs. This has been a very bipartisan approach on this bill by committee, I would say, between the Agriculture Committee and the Finance Committee.

We are out here on the floor, and I think we can move ahead in good faith by agreeing upon whatever amendments we can agree on on both sides. These are negotiations that take place in every bill in which I have ever been involved. They took place on the last one I was the manager on here, the appropriations bill on Education, Health and Human Services, and Labor. But you can't negotiate if you do not have anything to negotiate on.

I say again to my friends on the other side of the aisle, if there are amendments, if we bring them forth we can discuss them, and maybe we can reach some agreement on a package of amendments that we can then get to and start disposing of, one way or the other.

That is where we are. I see my friend and ranking member, Senator CHAMBLISS, is on the floor. I thank him for all of his good work on the committee. We have worked hard on this bill, and I think we have a good bill, one that, as I said earlier, I could basically support without amendments. I assume there will be amendments—some I may support, some I may not; some Senator CHAMBLISS may support, and some he may not support. But that is the way we do things around here. Then we will go to conference and work it out. I am just hopeful we can get some amendments proffered here and brought over so we can look at them.

I say the same thing on our side too. I have heard of amendments other than the Dorgan and Grassley amendment, and I say if we have Members who have amendments they want to offer on the farm bill, they or their staffs ought to bring them to us as soon as possible so we can take a look at them, see if they are relevant to the farm bill. If they are relevant to the farm bill—I say this very clearly and forthrightly—every amendment that is basically relevant to this farm bill will be considered and disposed of one way or the other. That is really what we have to focus on, amendments that are relative to the farm bill.

Again, I hope Senators on both sides would, if they have amendments, bring them forth so we can put a package together and we can get to it.

I yield the floor.

Mr. CHAMBLISS. Mr. President, I thank the chairman, my friend, my colleague, for his comments. I concur with exactly what he said, that we do need to have amendments filed so we know where we are. My understanding is, as of right now there are 67 amendments that have been filed. I don't know whether all of them are relevant. We have the list, but we will have to see which ones are and which ones are not.

But I think the biggest obstacle we have is the majority leader made the decision to fill the tree.

We have had some discussion, not debate by any means, on the Grassley-Dorgan amendment the other day. I understand there is some conversation about filing cloture on that amendment which is fine if that moves us ahead.

But until the leadership on the Democratic side makes a decision as to whether we are going to limit amendments, what those amendments are going to be, then I think we are kind of limited as far as moving ahead.

Let me say to Members on both sides of the aisle, particularly on our side of the aisle, that if you have an amendment, if you will file the amendment and, while you cannot call it up because the majority leader has filled the tree, come on over while we have got some time and talk about your amendment. It will certainly speed up the process when we do get to the point, as the chairman says, and I think he is exactly right. On every bill such as this, we will ultimately come up with a list of amendments. I would hope all of them are germane. There may be some that have to do with something else, as the Senate always has on every major piece of legislation. We have some that may not be farm bill related that will have to be considered. But that is for negotiation and agreement.

But if anybody has an amendment, I would say: Come over, make sure your amendment is filed, talk about your amendment, and at the point in time when the amendment ultimately is considered, it simply will speed up the process.

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. THUNE. Mr. President, I appreciate first off the bill that came out of the Ag Committee. It was a consensus product. There was a lot of bipartisanship support for it. I think it is important we move it forward.

What is happening here now is delaying something that is of critical timing to the producers in this country; they need to know what the rules are before they go into planting season next year.

By running out the clock, which essentially we have done this week, and unless we come to some agreement on amendments, we are going to lose next week. Then we are into December, and it is going to be awfully difficult to get a bill conferenced and on the President's desk before the end of the year.

I, for one, have an amendment, along with Senator DOMENICI and Senator NELSON, that has been filed. So I would say to my friend from Iowa that we are more than happy, if the leadership on the majority side would be agreeable, to us calling up amendments.

But as was noted by my colleague from Georgia, the current state of play is they have filled the amendment tree, thereby making it impossible for us to get amendments called up, pending, under consideration, debated, and voted upon.

But I have one that I think is very important, it is very relevant. You talk

about amendments that are relevant to the farm bill that would expand the renewable fuel standard. That was something that was supported by the Senate in the Energy bill. I have my doubts about whether we are going to get an energy bill this year. But I cannot think of anything that is more important to farm country right now than making sure we have a higher renewable fuel standard, particularly in the short term.

2008 is critical. We are already at 7½ billion gallons. Where the current renewable fuels standard sits that was passed in 2005, we are going to, and have, eclipsed that. If we do not raise this renewable fuel standard in 2008 in the short term, we are going to have a terrible crunch out there.

We are already seeing ethanol plants that are stopping construction, those that are under construction that have stopped it. We have some, I know of one in North Dakota that ceased operations for a while because the margins are not there.

This is a very relevant amendment to the underlying farm bill, one that would strengthen the energy title in the bill and one which is critically important, from a timing standpoint, to producers across this country and those who would invest in the renewable energy industry. I would add, because I think this is a very important point not just for farm country, not just for our farmers and those in rural areas of this country who have benefited from ethanol production economically, but also it is important for our energy security.

We have got a very serious problem. Oil is approaching $100 a barrel. We need to be increasing the amount of renewable energy we produce, homegrown energy in this country, so we can lessen that dependence upon foreign energy. We have an opportunity to do that. The ethanol industry in this country has done remarkably well, thanks, in large part, to the renewable fuels standard enacted in 2005. But we have been overtaken by events. We are passing, we are blowing by that 7½ half billion gallons. We need to get the new renewable fuel standard in place.

The amendment we have offered—it is a bipartisan amendment—would do that. It would get us to 8½ billion gallons in 2008, which is critically important. We are running into a wall out there. It is dramatically affecting the ability of this industry to compete and to make sure that it continues to operate profitably and move us in a direction that lessons our dependence upon foreign energy.

So I would simply say to my colleagues, to the Senator from Iowa, the chairman of the committee, the ranking Republican, Senator CHAMBLISS, that it would be very advisable, and I think advantageous, for us to be able to come to some agreement on amendments because delay, in the end, is not an option.

We cannot afford to go into next year without a farm bill. I would like to see this amendment considered. I hope the majority would make way for us to be able to offer amendments. This whole notion of filling the tree, I am not sure exactly what that accomplishes, other than to shut us down, at least in the short term.

So I would simply say we have an amendment, we are ready to do business as soon as the other side decides they want to open this bill for amendment. I hope we can do that and do it soon.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. ROBERTS. Mr. President, I would like to speak for 20 or 30 minutes on the farm bill, if I might. I would first like to associate myself with the remarks of Senator THUNE, the distinguished ranking member of the committee, Senator CHAMBLISS, and our distinguished chairman, Senator HARKIN.

Let me point out that Senator HARKIN did something very unusual. After handling one bill on the floor of the Senate, he then had the challenge of trying to move the farm bill, which is sometimes about as easy as pushing a rope. But he did it through committee in a day and a half. I think that is a record.

I have been through seven farm bills, two technical farm bills that were really farm bills, and I have never seen committee action be expedited in that fashion. So I wish to thank the chairman for that.

There were some differences of opinion. Obviously, we always have that. But he handled it very well. So I am in agreement with the chairman and with the ranking member and Senator THUNE, and I think almost everybody on the Agriculture Committee, that we would like to see action on this bill.

This morning, once again, I had the privilege of being on the ''Farm Show'' in Topeka, KS, America, on good old WIBW. That is where the farm broadcasters always ask you: Where is the farm bill? How is it coming?

I said: Well, it is not. We have sort of a briar patch we have gotten ourselves into in regard to something called filling the tree, that is a fancy word around here meaning you cannot climb up the tree and climb out on a limb and drop our acorn or your amendment down to see if it would be considered.

On the other side of the fence, let me say Chairman HARKIN has done some work, and I think he has done the homework to the extent to show in the last three farm bills not many nongermane amendments ever popped up on the floor in regard to the farm bill. That is a good thing.

Now, I am not going to be in a position to try to determine what is germane and what is not, but as I recall, there was only one amendment, I think it was by Senator KYL on the estate tax, I do think that is obviously germane to farmers and ranchers, but that is obviously a tax measure, but that was perhaps ruled out of order.

But hopefully we can get an agreement and say X number of amendments on your side and X number of amendments on our side and then proceed. I would hope we would not have to go to cloture to even debate the farm bill.

But farmers, ranchers, their lenders, whether it be in Iowa or whether it be in Georgia or whether it be in the Dakotas or in Kansas, they need answers now. I hope we do not get into a situation where our only option is to simply extend the current bill.

Now I am going to get to my prepared remarks. I have some points I would like to make. I will try to make them as short as possible. As I indicated to my colleagues, this is my ninth farm bill, either as a staffer or a Member. If you include the technical corrections I talked about, which sometimes means a complete rewrite of the farm bill, we do not usually say that, we usually say it is a technical correction, I have lost count.

Sometimes those technical corrections may seem somewhat covert but on most occasions they are not. Each farm bill debate is unique. Certainly, this one is as well. I would like to start off by saying there is some good news. I wish to thank the manager of this bill for including some important provisions I helped author. Senator CONRAD and I have been working on our open fields bill for quite some time. I am glad to see it included. It is clearly a win-win for sportsmen and also sportswomen, as well as farmers and ranchers who take advantage of the program. So that is a good thing.

I also appreciate the authors for working with me to address my concerns regarding the rural utility services broadband loan program. The reforms included do represent a very real bipartisan consensus. That was an effort to bring broadband Internet to more Americans. That is in the bill.

The committee bill includes crucial and very important language on rural hospitals. Senator HARKIN was a leader in that effort, that will make a real difference in many of our rural communities. The rural health care delivery system is always under pressure in keeping what we have. As a member of the Finance Committee I know that as well. We need to strengthen and preserve what we have and then improve it.

Finally, I also wish to thank Chairman HARKIN and our ranking member, Senator CHAMBLISS, and their staff for creating an agriculture security title in this legislation. This is something we have worked or on for several years.

Now, despite the fact that our Nation enjoys but does not apparently appreciate the fact that production agriculture does provide this country and a very troubled and hungry world the very best quality food at the lowest price in the history of the world, we have heard a lot of repeated calls for dramatic reform of our farm programs.

Now, while targeted and pertinent reforms in some of our programs are certainly needed, and this bill takes major

steps to do that in answering those calls, it seems to me we must be cautious of what lurks under the banner of reform.

We must be mindful of the unintended consequences of our actions. Nowhere in this bill is that more evident than in the livestock title. I represent a State where cattle outnumber people more than two to one. Cattle represented 61 percent of the agriculture cash receipts by generating over $6 billion in 2005. That is a lot of money.

I tell you this, so you understand that when I say the livestock industry is vital to Kansas and the country and our economy out there on the high plains and also to our livelihoods.

Now, competition issues are nothing new to this body. I understand that. I agree that our producers need to be able to compete in today's markets. It is the role of the Government to protect producers from unfair practices and monopolies, and I understand the calls from some for increased Government involvement and oversight.

At the same time, we must take careful steps to ensure that in any action we might take, we do not suffer from the law of unintended consequences and risk the significant gains the livestock industry has experienced. It has changed dramatically.

During this debate, we have heard from several Members about how farm bill debates rarely fall along party lines and traditionally follow regional interests. This may seem odd to those who have not worked on a farm bill before, but that is the case.

Agriculture in one region can mean something different, very different, than agriculture in some other region. These differences do not just include the crops and the commodities that are produced, there are significant differences in practices, farming practices, and input costs, what it costs to have a successful cropping operation and risk; risk, which is a big-time consideration among the different regions.

We have low risk in certain States, where I have often said in jest, where they simply put the seed in the ground, they do not farm it, it just comes up, as opposed to other areas where we have high risk, we really have to farm the ground and other areas.

As a Senator from a State with higher risk agriculture, and there are many of us representing these States, many of our current farm programs unfortunately have not worked for our constituents. However, some of them do. In recent years, they have represented a lifeline to our hard-pressed producers who needed a lifeline, and it has been their only lifeline.

In particular, I am talking about direct payments and crop insurance. I will come back to that and come back to that and come back to that. This is why it is vital that as a Federal Government, we craft farm programs that do not merely benefit one region or one crop but that we draft legislation that is national in scope.

So reducing programs that benefit one region to increase programs that benefit another region is a dangerous enterprise. I caution my colleagues against taking this route.

If we want a farm bill that represents the entirety of agriculture, we must not play games that pit one sector of agriculture against another. I remember the days of the whole herd buyout back when I was privileged to be a Member of the House of Representatives. That may have been of help—I underscore the word may—to the dairy industry, but it put a lot of livestock producers out of business. I underscored that in my mind and to my colleagues at that time, that we must not get into another situation where one section of agriculture is competing against another and putting them at a disadvantage. We certainly do not need that.

For several years now I have been telling everybody who will listen about how the current farm bill does not provide assistance when our producers need it the most. When Mother Nature starts stirring up trouble—and we have seen that in Kansas and other States, either through a drought for, 2, 3, 4 years, or a flood, or a freeze, or tornadoes, I don't know what could come next from Mother Nature—our producers in the field take it on the chin and in the pocketbook. Yields go down; prices jump up. Again, the only programs that do provide them any cover are direct payments and crop insurance. The countercyclical program currently in the farm bill, which when we wrote it we predicted prices would be lower, simply doesn't offer them a payment. So if you lose a crop, the only thing you get again is a direct payment and crop insurance. In regard to crop insurance, during a drought your average production history goes down, and that impacts your crop insurance that will allow you to work with your lender and stay in business.

This story isn't new to anybody who farms in what we call the breadbasket of the world. Thankfully this bill does not cut direct payments. I know direct payments may seem like an easy target or a bank, for some, but to those in the fields, our farmers, the direct payment program helps them produce the safest, most abundant food supply in the world. Once again, the standard farm program rationale—I know Chairman HARKIN has made these comments, I have made them, everybody connected with the Agriculture Committee and agriculture in general has made these comments—our farm programs are a big reason why we in the United States enjoy a market where we spend only 10 cents of each dollar of our disposable income on food. That is one dime. That frees up 90 cents for the consumer to spend on other things, whether it be housing, health care, education, leisure time activity, whatever. That is the lowest in the history of the world. This speech used to be made by leaders in the House Ag Committee some years ago. Then it was 18 cents, 19, 20. Now it is one dime we spend in regard to food, freeing up 90 cents.

Without farm programs, that consumer would have to rely on market disruptions that happen and the fluctuations that happen, they would be at a big disadvantage, especially those disadvantaged and living in the cities. We need to thank our producers for this. But if you look at this farm bill, you will see that only 14 percent now goes to the commodity title. When Senator CONRAD was on the floor earlier this week, he informed us that commodity title payments under this bill represent a mere one-quarter of 1 percent of all Federal outlays. In fact, $6 billion comes out of the commodity title to pay for initiatives in other titles. That $6 billion comes out of the pocketbooks of the folks who provide the food and fiber for a troubled and hungry world for other programs. I am not trying to perjure other programs. They are good programs. But we should not take it out of the hides of farmers and ranchers who desperately need help when they lose a crop.

The conservation title receives an increase of over $4 billion, appropriate, but it is up $4 billion. A plus-up in nutrition program funding is over $5.5 billion which brings total nutrition title spending to two-thirds of the entire bill. I know there are amendments being considered that will take more out of the commodity program, give more to nutrition programs. I suggest that $5.5 billion in additional funding and two-thirds of the entire bill going to nutrition is appropriate. Let's work through that. Let's get at the Nation's problems of obesity and good health and wellness. That is appropriate.

Yet I have no doubt that during the course of this debate, Members will come down to the floor and argue for additional cuts to producers to fund these other programs. I am not saying our conservation and nutrition programs don't need additional funding. I hope I have made that clear. Quite the contrary. I am here today saying this bill already puts enough of that responsibility on the backs of farmers and ranchers. Let's not pile anymore on.

Production agriculture needs a voice in this debate. I am happy to stand up for those producers. We have heard it a lot in farm bill debates from critics of any farm bill, 15 percent of producers do produce 85 percent of our Nation's food and fiber. But in the national media and among many of the sideline groups and organizations, these producers, because of the size of their operations, are either described or tattooed as ''rich. '' They say ''How can you not be rich if you are farming 10,000 acres? How could you not be rich if you are farming 5,000 acres, whatever is cost efficient in whatever region of the country you farm in?'' In many instances, they are simply taken for granted or ignored. In some cases, they don't even exist. Look at their contribution. That is the key. Look at

their contribution. Kansas is the top wheat and grain sorghum-producing State in the country. Since 1996, Kansas farmers have produced an average of 365 million bushels of wheat each year. If you are taking away programs that help them in dire straits especially crop insurance and direct payments, you are risking that 365 million bushels of wheat each year, which I submit is a vital national asset. In 2007 alone, the plains States—talking about from North Dakota all the way down to Texas—produced more than 1.5 billion bushels of wheat. We don't want to do anything that could injure or set back that kind of production. There is a reason we are known as the breadbasket of the world. If we cut these direct payments and crop insurance which are vital to sustaining this production, who will supply the United States and the world? Who will give ample supplies to the world food program to respond immediately to the humanitarian crises we see daily in the world? What would this do to our prices if we lost these producers? Do we want our grain supply to come from China or Brazil or somewhere else?

I traveled through much of western Kansas in August. Much of Kansas suffered heavy losses on its wheat crop this year. Western Kansas for a change was different. Many of those producers had a bumper crop, thank goodness. But I want everybody in the Senate to hear this, for many of them it was their first crop after 5 years of devastating drought. Again, under the auspices or the way this farm bill works or doesn't work, they received no help other than direct payments and crop insurance. Stop after stop on my tour, producers and their lenders, bankers and farm credit, made clear to me one very important fact: Had it not been for direct payments and crop insurance during those 5 years, many of those producers would not have been around to grow that bumper crop this year. We are talking about anywhere from 350 to 400 million bushels of wheat, let alone many other crops.

That is why I get concerned when I hear folks talking about cutting direct payments or crop insurance during this debate. It is why I will fight and oppose any such proposals should they come forward trying to use the logic I have described in these remarks.

I want to make clear to my colleagues who it is they are impacting the most, if they come forward with amendments and attack these programs. They are not going to be attacking this Senator. They are not going to be attacking some political or some small farm philosophy or some business. They will be attacking the people who feed this country and a troubled and hungry world. I have said that three times because it is true. They will be attacking the farmer who has farmed land for 40 years or more, the land that his or her father, grandfather, and great-grandfather farmed before them. They will be going after the young family, the husband-and-wife team with two or three young children and agriculture degrees from Kansas State, Nebraska, Colorado State, North Dakota State, all of the land-grant universities throughout the high plains, and the list goes on. The young couple who will return to the farm to raise their families because they believe in agriculture, farming, rural communities, and raising their children as part of the family in what is called rural America, what we in Kansas call ''real America.'' They get up at 5:30 in the morning. They often don't quit until 10 at night. They are working hard and maybe farming 2,000 or 3,000 acres. But they are not rich simply because they farm 2,000 or 3,000 acres. They are not rich simply because they are big farmers. This business of trying to means-test farm programs based on the size of an operation simply ignores reality in regard to production and what we produce for this country and the value of that production.

It is not the size of the operation. They are still young—I am talking about the farm couple again—so they don't have the liquidity built up in their operations that allows them to survive on their own through droughts that last 2, 3, 4, and, yes, even 5 years. They have kept the dream alive. They stayed in business. They secured the operating loans they needed because they and their bankers knew they could depend on direct payments and also on crop insurance.

When you talk about that next generation farmer and where they will come from and who will replace them, that is the issue. These folks are highly educated. They are feeding this country and the world, but they are operating on the margin. The actions we take here have real-world impact. Yes, conservation is important. We are increasing that funding. Yes, nutrition is important, and we are increasing that program $5.5 billion. Yes, renewable energy programs are important, and we need and we are increasing the funding for these programs. But so are all those farmers out there, especially that next generation.

To some here in the Senate, that young family farmer farming the 2,000 or 3,000 acres is a big farmer. I don't know what that means. Are we talking about aiming the farm program? I don't know. Senator CHAMBLISS has heard me say this before. I am not sure what that means. If we are going to aim the farm program at only small family farmers? I don't know whether that is somebody 5 foot 3 up in the Northeast part of the country who has maybe 40 acres, maybe has a pond and an orchard. Obviously, the orchard would be organic. They are going to be farming specialty crops now that have a program, over $2 billion worth, probably more by the time we get through. Maybe that person is a small family farmer. I suspect he is sitting on his glider on his wraparound porch. He is only 5 foot 3 so he is a small farmer, and he only has 40 acres. He has a three-legged dog named Lucky and he pats him on his head and reads his Gentleman's Quarterly. He is a retired airline pilot and his wife works downtown as a stockbroker.

I have a big farmer. He is 6 foot 3. He and his wife and three youngsters farm 10,000 acres because it is more cost efficient. Maybe some year they don't hit it very big. Maybe 1 out of 2 or 3 years they hit it really big. That production is vital to the food and fiber of this country. So somebody at least has to stand up and say: Wait a minute. What are you trying to do in terms of means testing in regard to size?

Now, I used a little cynical or perhaps sarcastic example. I apologize for that. But that is where we are. Not everybody in America can take the time to come to the farm-to-market sales at their local communities. They are good. They are great. They are serving more vegetables, more fruit, more organic produce. I am all for that. But that is not going to make up what this country needs in regards to 20 percent of our GDP and $64.4 billion worth of wheat, corn, sorghum and cotton program crops, and enabling in this country, again, every consumer to spend only one thin dime out of their disposable income dollar for food.

Well, I have some good news for you. Yes, they farm a lot of acres out there, these aren't ''big farmers'' or so-called rich farmers, but they are family farmers in every sense of the word, and they are struggling to survive. So consequently, I hope we do not make the mistake again of pitting one region against the other or one kind of cost input situation or one kind of risk situation against the other. We need truly a national program.

I hope before we start offering and passing amendments around here—once we get to that point, if we can get to that point—because we think we can save money or because we have had a questionable GAO report that we think about the impact of our actions in regard to the real world.

I commend our chairman, Chairman HARKIN. I commend Senator CONRAD and Senator BAUCUS on the Finance Committee and Ranking Members CHAMBLISS and GRASSLEY for moving us forward without cutting any direct payments. Chairman HARKIN has gone from managing the Labor-HHS appropriations bill on the floor—that is a tough challenge—to the Ag Committee farm bill markup in a day and a half—that is a record—to now floor consideration of the farm bill in a few short weeks. That is quite a task.

Now we find ourselves in a legislative or parliamentary quagmire in what we call filling up the tree. Well, I really think—I don't know, Senator CHAMBLISS—have we agreed to about 10 amendments on each side, 5 amendments on each side. As a matter of fact, we could take our amendments, and they would be in order, and then

maybe we could not consider somebody else's. But that is not fair, certainly not in the Senate where everybody tries to amend everything. So certainly we could reach some accommodation here with the leadership and with yourself and Chairman HARKIN to say a reasonable number of amendments could be offered—maybe 10, maybe 5, maybe 15. I do not know. But obviously we have a long way to go before this bill is ready to become law.

The people who are waiting are the farmers and the ranchers and the bankers and the lenders. We are not going to consider this farm bill, apparently, unless we have a cloture vote. That may be next week. Then we will have other considerations on the floor as of next week. Well, the farmers and the ranchers and their lenders are in the middle of planning decisions, lending decisions. They cannot wait.

There is a school of thought: Oh, just extend the current farm bill. The current farm bill does not work well, as I have said, again, in regard to a farmer who has lost his crop. We are sitting here in this legislative briar patch while they wonder what on Earth we are doing back here in regard to trying to pass a farm bill.

There are still several things in the House and Senate bills that still need some work.

Mr. CHAMBLISS. Mr. President, will the Senator yield for a question?

Mr. ROBERTS. Mr. President, certainly I will be happy to yield to the distinguished Senator.

Mr. CHAMBLISS. I say to Senator ROBERTS, you have a tremendous amount of experience from a legislative standpoint on farm bills. This is your which farm bill?

Mr. ROBERTS. I think it is the seventh. But I did not count the technical corrections that, as I have said, for some cases that really represented a rewrite of the farm bill.

Mr. CHAMBLISS. I know during my first year in the House, you were the chairman of the House Agriculture Committee. I was privileged to serve on the House Agriculture Committee, and you chaired the committee that wrote the 1996 farm bill.

You talked about farm bills seeking to deliver funding to the small farmer. That is such a difficult issue. It sounds good from a legislative standpoint. It sounds like something we ought to be able to do in practice when, in fact, it is so difficult to do, because what is a small farmer? I am not sure what a small farmer is in Kansas. It is probably different from what a small farmer is in Georgia. But a large farmer participates in the production of agriculture in America just like whatever that small farmer does.

I would simply ask the Senator, what is your thought on the production by a small farmer versus a large farmer? Who is the one who actually puts products into mainstream agriculture from the standpoint of the quantity of products that are put into agriculture? In other words, what percentage of farmers produce the products?

Mr. ROBERTS. Well, as I said before, some of our critics—and we should have critics. We should have oversight. We are not doing everything right, that is for sure. And farm bills—I tell you, we passed the Rubicon. This is no longer a farm bill. This is a bill that should be titled—I don't know what to put first—but conservation, nutrition, food stamps, rural development. We have a brand new section for specialty crops, which is a good thing in that for too long they have been out of the farm program.

I must admit I never had a specialty crop producer come in my office and want to be part of the farm program because, inevitably, you have to put up a lot of rules and regulations, although I understand this one is done by State grant. I do not know whether we are going to have a hodgepodge of different programs for specialty crops. But specialty crops are a very important item.

So is that a small farmer. Do not misunderstand me. Small farmers have a niche market. Small farmers are into organic produce. Small farmers take their produce to a place such as Alexandria, which my wife tries to get me up in the morning to go and visit and at least purchase some fresh fruits or vegetables. That is a good thing.

But we cannot rely on just those folks or small farmers as opposed to the 15 percent of producers. Of course, the criticism is, they get most of the payments, but they produce most of the food and fiber—85 percent. If you add that up, as I have indicated, that is 20 percent of our GDP. That is $64.5 billion worth in regard to the program crops I mentioned earlier. Yet you would think that everybody just takes them for granted. We are not an endangered species. We may be extinct in terms of the national media. Nobody pays any attention to production agriculture anymore. It is almost as if it is a bad thing to produce food.

Go to your grocery store. I am always amazed when we have the opportunity to take foreign visitors to a typical American grocery store. It just knocks their socks off and their eyes pop out in regard to the variety we have there. But much of that produce in that grocery store on behalf of the consumer is produced by production agriculture. That is not a bad thing.

That is the whole point I am trying to make. If you say, OK, somehow, if we go back and just limit it in size to a small family farmer, that does not work out on the High Plains. Yet Kansas is known as the wheat State, and we are known as the breadbasket of the world. The High Plains produce 1.5 billion bushels of wheat each year. That is what is at stake, not to mention the young farmers who do this.

Well, I am very hopeful that through this process we can improve our agricultural programs to better protect our farmers and ranchers in times of need and to provide assistance to both those domestically and globally, increasing investments and stability in rural America. I know this farm bill tries to do that.

In the end, this bill should be about the men and women in the fields and on the ranches working every day to provide the safest, most efficient food and fiber source we have seen in the history of the world. Our farmers and ranchers would never put the seed in the ground if they did not have any faith and optimism that it would grow and they would have a crop. We owe it to them to make sure we make this the best bill possible and do all we can to keep the ''farm'' in the farm bill.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. CHAMBLISS. Mr. President, I, first of all, extend my appreciation to the Senator from Kansas. Senator ROBERTS is not only a great personal friend, but he is someone for whom I have tremendous respect in so many areas but in no area greater than agriculture. As I said earlier, we served in the House together. He was my chairman on the House Agriculture Committee. Now he is one of the leaders on the issue of agriculture in the Senate and somebody on whom I rely very much in my role as ranking member, as I did when I was chairman over the last 2 years.

I just want to say, as we went through this farm bill, with all the complexities we had to deal with in there, there was one issue that, frankly, was a new addition to the farm bill mix, and that was the issue of average crop revenue—an option that is added in the commodity title. It does not look as if it is going to be of much benefit to Southeastern farmers, but to farmers in the Midwest, it has the potential to be a very usable mechanism.

I thank Senator ROBERTS for taking that issue on and really getting into the ''weeds'' and doing the necessary study and homework on the issue and coming up with some strong and valuable amendments that have made that provision much better at the end of the day, when this bill came out of committee, than it was when we started.

We are still going to have some debate on the provision as we come to the floor now, but without his leadership, without his studying this issue, we would not be where we are. I know he feels exactly the way I do. The Presiding Officer is, sure enough, one of those farmers who know what getting dirt under their fingernails means, and I know he has an appreciation for this too.

We worked very hard over the last decade to improve the Crop Insurance Program. It is not perfect, but what we tried to do was to put the decision of how many crops to plant, how many acres of each one of those crops to plant, in the hands of the farmer and the banker who banks that farmer and him having the ability to use the tools of farm programs, plus the availability

of a good, solid crop insurance program and to take the decision off the Government mandating to that farmer what he ought to plant and putting it in the hands of that farmer.

I think we have done that over the years. Still, it is not perfect. But today there appear to be some folks who, for whatever reason, want to take some shots at the Crop Insurance Program. I know the Senator from Kansas feels just as strongly as I do about the fact that we do not need to weaken the Crop Insurance Program. We need to strengthen that program to, again, move away from dependence by farmers on the Federal Government and allow them to have the market dictate their stream of income and have safety nets in the form of agricultural programs and crop insurance.

So I thank him for his leadership, and I thank him for the comments he has made today relative to the product that came out of the committee.

Mr. ROBERTS. I thank the Senator.

Mr. CHAMBLISS. Mr. President, I wish to take just a minute to address an issue that appeared in the Washington Post earlier this week. In an editorial, the author made some significant statements about the Cotton Program that exists in this current 2002 farm bill. Since we are in farm bill season, we have a constant barrage of editorials that come out—some of them in favor of farm programs; most of them seem to think farm programs are an easy target, and therefore they are very negative. This one was very negative. But as with most people who write these editorials and publish them around the country, frankly, this editorial is filled with total inaccuracies. I want to talk about a couple of those.

I want to set the record straight relative to what this author is talking about because there is one particular issue in here that has been discussed over the last several years that is simply wrong.

First of all, this editorial takes on the Cotton Program in the 2002 farm bill and says this program has a very negative effect—if you can imagine this—a very negative effect on the ability of cotton farmers in the West African countries of Benin, Burkino Faso, Chad, and Mali. Now, in this editorial the author writes to start with:

> For years, the Federal Government has guaranteed American cotton producers about 72 cents a pound, even though the real market price of cotton has averaged about 57 cents.

Nothing could be further from the truth. That is just a completely inaccurate statement. What the author is talking about is the fact that in the 2002 farm bill, there is a target price for cotton of 72.4 cents a pound, but that simply does not guarantee a cotton farmer 72 cents a pound. The only correlation between guaranteeing a cotton farmer a floor on the price of cotton and the farm bill is the fact that there is a marketing loan available to a cotton farmer, and the marketing loan rate is 52 cents a pound.

That is the amount guaranteed to a cotton farmer from the 2002 farm bill. The fact is, the price of cotton today is in the range of 60-plus cents, so what that means is there would be no marketing loan benefits available to a cotton farmer as long as the current price is above the marketing loan rate.

So for some off-the-wall editorial writer to come in and say a cotton farmer is guaranteed 72 cents a pound by the 2002 farm bill is misleading and is typical of the statements that are made about farm bills by folks who have no idea what they are talking about.

Let me point out another inaccuracy. The author goes on to say:

> Since 2002, market prices haven't even covered the cost of producing cotton, but the amount of acres planted in cotton has increased because the government guarantees a higher price.

Again, the author of this editorial simply has not done their homework.

Here are the actual facts: Cotton acreage in the United States in 2002 was 17.2 million—17.2 million. In 2007—this year—cotton acres in the United States are 10.5 million. Instead of cotton acres increasing in the United States, we have seen a 39-percent reduction in the number of acres planted from 2002 to 2007.

Furthermore, the author goes on to say:

> Who benefits from the current system of cotton subsidies?

His answer to his own question:

> About 20,000 American cotton producers, with an average annual income of more than $125,000.

Let me tell my colleagues who really benefits from the cotton program in America as we know it today. We have in the United States today about 20,000 cotton producers. Those cotton producers deliver their cotton to gins where it is then processed, and the outcome of ginning cotton is a cotton bale. The cotton bale then goes into the marketing stream, where it can be sold to domestic cotton mills or exported, as most of our cotton is today. Unfortunately, all of our textile mills that were located all over the Northeast and then in the Southeast today are located in either the Caribbean region or in China or in Vietnam or elsewhere. Therefore most of our cotton is exported. But the farms and businesses directly involved in the production, distribution, and processing of cotton employ more than 230,000 Americans and result in direct business revenues of more than $27 billion.

> Additional economic multipliers through the broader economy, direct and indirect employment surpasses 520,000 workers with economic activity in excess of $120 billion.

Now, the author of the editorial makes this statement:

> The effects in the cotton-growing regions of West Africa are dramatic.

The author is talking about the U.S. cotton program's impact on West African countries. What they say is, the production of cotton in the United States under the current farm bill dictates to cotton growers in Africa what they can get for a pound of cotton. Again, nothing could be further from the truth because I have already noted what happened relative to the decrease in the production acres of cotton in the United States. Well, guess what has happened in other parts of the world. If we are having such a negative impact on producers in Africa, does it not stand to reason we are also having a negative impact on cotton growers in Brazil and in China and in India and in other cotton-growing areas? I do not think it would have just a negative impact in West Africa.

The fact is, in China, in 2002, the cotton acreage was 10.3 million acres. In 2007, cotton acreage in China was up to 15.1 million acres. During this time that we have been negatively impacting West African cotton growers, China has increased its cotton acreage by 50 percent. In 2002, India had cotton acreage of 18.9 million acres. In 2007, that was up to 23.5 million acres, an increase of 24 percent. In Brazil, in 2002, 1.8 million acres of cotton were planted. In 2007, 2.8 million acres of cotton were planted in Brazil. Again, up 55 percent.

For the author of this editorial to say the United States cotton program is having such a negative impact on four West African countries is totally ridiculous. This editorial failed to mention the fact that in this farm bill the Senate has before it for consideration, we provided significant reforms in the cotton program itself to reduce amber box government expenditures. The administration of the cotton marketing loan program is reformed to improve the efficiency of the program. The target price for cotton is the only target price in the Senate bill that is reduced. We thereby save $150 million over ten years.

The trade title also includes provisions that repeal authority for the supplier credit and GSM–103 program, measures that are necessary for the United States to comply with the Brazilian cotton case and the WTO. That creates a savings of $50 million. Also, we have significantly reformed the payment limitation provision, and the Adjusted Gross Income limitations are reformed, which saves $456 million.

None of this is mentioned in this grossly mischaracterized, inaccurate article that is aimed solely at a program that provides over 520,000 American jobs.

If we examine the production of cotton in China during the same 2002 through 2007 period that I alluded to a minute ago, China increased by 57 percent, India has increased by 122 percent, Brazil increased by 79 percent, and the U.S. increased cotton production by 6 percent—6 percent versus 57, 122, and 79 percent in those other three countries.

The article insinuates U.S. cotton production alone resulted in the overproduction of cotton when, in fact, U.S.

cotton production in 2006 represented only 17.7 percent of the world production and is estimated to be just 15.1 percent in 2007.

One other fact that is conveniently left out of this article is, if, in fact, the U.S. cotton program has a direct impact on the C–4 countries in West Africa, it was not that many years ago when the price of cotton worldwide was $1 per pound—$1. There is no mention of the fact that if we had a negative impact, certainly we had a positive impact when the price of cotton was $1 a pound.

As one would expect, the editorial cites economic studies by organizations with anticotton agendas that show U.S. cotton production impacting world prices. However, several independent analyses show minimal price impacts attributable to the U.S. cotton program on these West African countries and any other country. The most recent economic study by researchers at Texas Tech University show world price impacts of 3 percent or less attributable to the U.S. cotton program.

West African cotton farmers receive less than 40 percent of the world market price. Why is that the case? These West African countries are rampant with fraud and corruption and the issues that typically are present in underdeveloped countries. Growers in China and India are paid between 90 and 100 percent of the world price for their cotton, so somebody other than the West African cotton farmers is receiving the difference. It is pretty obvious there is a lot of corruption going on in the West African cotton industry. But, again, this article conveniently fails to mention that point.

West African cotton yields are going down, while cotton yields in other countries are increasing.

Here are the real facts that are conveniently left out of this article:

From 2001 to 2005, the average yield in the C–4 countries fell by 15 pounds per acre, down to 353 pounds per acre. Average yields in India increased by 77 pounds per acre. Average yields in China grew by 272 pounds per acre. Brazilian yields have increased by 668 pounds per acre in 10 years.

West African farmers also have refused to take the latest, most technologically advanced assets that are available to them to utilize in the growing of cotton—again, a fact that the author conveniently left out of this article. They continue to reject genetically enhanced crops, while the adoption of those genetically enhanced crops in China, India, and Brazil allow their farmers to reap the benefits of improved yields and lower costs. The C–4 countries have little in the way of a textile industry, and the textile industry would like to have cotton close by. That is why we are seeing a huge increase in the production of cotton in China, for example.

What has the U.S. actually done from the standpoint of impacting the West African countries? Here is exactly what we have done—another fact that is conveniently left out of this article. The United States is engaged in a number of outreach activities with West African countries that began in 2004 which are aimed at raising their agricultural productivity, spurring economic growth, and alleviating hunger and poverty. These efforts are coordinated by the U.S. cotton industry, with USAID, the Trade Representative's Office, and the Millennium Challenge.

Now, I could have picked out another crop, be it corn, soybeans, or whatever crop is under attack right now, but this just happened to be a totally inaccurate editorial that appeared in the Washington Post earlier this week. Unfortunately it is pretty typical of the criticism that is leveled at farm programs by people who have no concept of the commitment that farmers and ranchers in America—be they a small farmer or a large farmer—make to ensure the development of their land and production of quality agricultural products that ultimately wind up in the grocery store, which allows all Americans to spend less than 10 cents out of every disposable dollar on food products. That is the lowest—the lowest amount of money that is being spent on food products by any country in the world, and that is the benefit the American consumer gets from our agricultural producers.

As we move forward over the next couple of days, I am very hopeful my colleagues will come to the floor and talk about what amendments they have. I see the distinguished Senator from Colorado is here to perhaps talk about some issues he has of concern.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Colorado is recognized.

Mr. ALLARD. Mr. President, I note with some interest that ''agriculture'' does not appear in the title. It is called the Food and Energy Security Act. I think that in this particular piece of legislation, we are missing the boat, with commodity prices up, doing very well, and generally rural America is in a better position—at least in Colorado—than it has been in recent history. I think this would have been a good time to bring forward some reform in the agricultural programs. I am disappointed we don't have any reform in this particular piece of legislation. I do have some amendments I would like to be considered.

I noticed that the chairman of the committee said no Republican amendments are coming forward. That is not true, the amendment tree has been filled. That means if you bring an amendment, you cannot call it up. You don't have that opportunity. So we have some very serious amendments that I would like to bring up for discussion on this bill. Our staff has been working some with the agricultural staff on some of these amendments. We think we will reach agreement on some of them. There may be several on which I would want to have votes. These are serious amendments which I think are important—items that ought to be brought up before the Senate for discussion and ought to be reviewed. I think they have some value in what we are trying to propose.

I am anxiously hoping that we can put the bill in a posture so that amendments can be applied. I know the ranking Republican, along with Senator HARKIN, have worked hard on this piece of legislation. There are some good things in it; they are not all bad. I appreciate their effort on what they worked on together.

There are some things that continue to concern me: We have expansion of Davis-Bacon; we have tax increases and some budget gimmicks to make it look as if there is not as much spending as there is. Frankly, there is a lack of reform. I haven't made up my mind on how I will vote on final passage of this bill. I am waiting to see what it will look like after amendments have been adopted on the floor, if any, if we get an opportunity to do that. Hopefully, we can pass this bill in a way that won't adversely impact our trade agreements.

This is another concern that gets brought up in relation to this issue. We have to be careful we don't do things that adversely affect our trade agreements, which come back and haunt us and reverse policies that may be decided and be applied to the agricultural industry and lose some of our export markets, which are so very important. Colorado is one of those States in the agriculture area that have benefited by these free-trade agreements—NAFTA in particular—and we continue to export our beef and our grain. They continue to be a valuable part of our economy. Agriculture is important to the State of Colorado. But if we can move more toward a market-based way of managing our agricultural produce, I think we would be much better off.

So every piece of legislation that has come up in the Senate has a tax increase in it, or they call it revenue enhancers. Many of them are, frankly, tax increases, or they may be fee increases.

I want to take a little bit of time on the floor to talk about tax reform. Mr. President, I rise to talk about the issue of taxes. This issue is very important to the hard-working men and women of our great country. I think we need to look seriously at tax reform.

I believe the Federal tax burden is excessive and overly intrusive. Reform of the IRS and the current system is long overdue. In recent years, it has become abundantly clear that we have lost sight of the fact that the fundamental purpose of our tax system is to raise revenues to fund our Government. In its current application, the U.S. tax system distorts the economic decisions of families and businesses, leading to an inefficient allocation of resources and hindering economic growth. Our tax system has become unstable and unpredictable. Frequent changes to the

tax code have caused volatility, and it is harmful to the economy and creates additional compliance costs.

The tax system was originally intended to be an efficient system designed to raise revenues for national defense, social programs, and vital Government services. However, the current tax system is now so complex that approximately $150 billion is spent each year by U.S. taxpayers and the Federal Government just to make sure taxes are tallied and paid correctly.

This is an enormous expense and is a waste of resources. At present, the United States has instituted a tax system that thwarts basic economic decisions, punishes wise and productive investments, and rewards those who work less and borrow more. As it stands, the quagmire that is our existing Tax Code penalizes savings, contributes to the ever-increasing cost of health insurance, and undermines our global competitiveness.

More disturbing is the fact that Americans spend more than 3.5 billion hours doing their taxes, which is the equivalent of hiring almost 2 million new IRS employees—more than 20 times the agency's current workforce. On average, Americans spend the equivalent of more than half of one workweek—26 hours—on their taxes each year, not to mention the amount of time they work to pay the taxes themselves. At the end of the day, despite our lengthy codified tax law, there is no evidence to suggest that Americans really know how much they should be paying in taxes in any given year, or why. The Tax Code should aspire to be clear, transparent, rather than multifarious and convoluted. Everybody should be able to have a basic understanding of the Tax Code, knowing how and why they are taxed.

The Tax Code's constant phaseins and phaseouts are a nuisance at best, and a negative force at worst, in the daily economic lives of American families and businesses, which include farmers and ranchers. Moreover, taxpayers with the same income, family situation, and other key characteristics often face different tax burdens. This differing treatment creates a perception of unfairness in the Tax Code and has left many Americans discouraged. At present, how much or little taxpayers pay in tax is sometimes dependent on where they happen to live and the choices made by their employers.

In 1986, President Ronald Reagan, a true visionary in this area, signed the Tax Reform Act of 1986, which reduced top marginal individual tax rates from 50 percent to 28 percent and increased the standard deduction and reduced the top corporate tax from 50 percent to 34 percent, and in so doing, this reform act simplified the Tax Code, broadening the income tax base, allowing for lower marginal rates, and curtailing the use of individual tax shelters.

While the 1986 act was a step in the right direction, unfortunately, it didn't produce a long-lasting transformation of the tax system. Today, our tax system bears little resemblance to the simple, low-rate system promised by the 1986 reform. This is due to constant tweaking over the years, as we are seeing in these legislative proposals coming before the Senate in this particular piece of legislation. More than 100 different acts of Congress have made nearly 15,000 changes to the Tax Code.

I support broad-based tax reform and a simplified tax system. It is my belief that any reform to the current tax system should benefit the middle class. The vast majority of taxpayers are the middle class, and they have borne the burden of the current system. While I was a member of the Colorado Legislature, we implemented a 5-percent flat tax for Colorado. I believe we should take a similar approach on the Federal level.

While I would be willing to consider a flat tax, a sales tax, and other plans on the Federal level, it is important that any replacement plan be simple and fair. The replacement system must provide tax relief for working Americans. It must protect the rights of taxpayers and reduce tax collection abuse. Most important, a new system must eliminate the bias against saving and investment and promote economic growth and job creation.

No one can deny that our Tax Code is in dire need of reform. Its complexity, lack of clarity, unfairness, and disproportionate influence on behavior have caused great frustration. Our current Tax Code has been shaped by goals other than simplicity, by intentions other than helping the taxpayer plan ahead, and by objectives other than expanding our economy. Not only has it failed to keep pace with our growing and dynamic economy, frequently changes have made it unstable and unpredictable.

Years of hodgepodge Government interference and ad hoc meddling have left our Tax Code in shambles. While we cannot change the past, we can learn valuable lessons from the same and remedy our mistakes. If we don't take steps to immediately simplify and reform our Tax Code, it will become more complex, more unfair, and less conducive to our economy's future growth. Small reforms are not enough. A total overhaul of the existing system is the only chance we have to get our economy and deficits back on track.

We must act now. We have a responsibility to our constituents and this Nation to resolve the predicament in which our current tax system has put us in. If we here in Congress don't act sooner rather than later in reforming our tax system, it will become more complex and cumbersome.

Mr. President, here we are again, and we have a piece of legislation before us that meddles with the Tax Code, takes piecemeal action on the Tax Code, and leads us more into a deeper quagmire of the complicated code. One of the aspects of our economy that gets impacted more than any other is the small business sector. They have to struggle with these. Large corporations have accountants and lawyers on staff. It is not a problem for them. It is a problem but certainly not as great a problem as for a small business, which may be a man-and-wife operation, or a business run out of a home, or it may be just a small workforce, a small business with 10, 15, 30 in the workforce. Many times, we look at it as we would a ranch, where it is just a family operation or a farm operation. They are the ones who are disproportionately impacted by a complicated Tax Code.

Here we go again, in this particular farm bill, raising taxes and piecemealing the Tax Code. I hope the Congress—certainly, it is too late in this session—in the following sessions can come forward with serious attempts to simplify our Tax Code to make it fair and to not be piecemealing it, as we are seeing it in this particular farm bill and other pieces of legislation that have been brought up on the floor of the Senate.

It is a challenge. It is not an easy task. I have been a part of those discussions on simplifying it, and there are many perspectives. It is becoming essential, and it is getting to the point where I don't think we can continue to ignore the challenges because of the adverse impact it is having on the citizens of this country and the difficulty they have in understanding the Tax Code and how taxes adversely affect productivity, such as farmers and ranchers, which we are trying to address in this bill, and small businesses throughout the country that are trying to do their best to be able to make a living for their families.

So I felt we needed to take a little time to talk about taxes. Again, I am seeing a pattern in this legislation that really concerns me.

As I said earlier in my introductory remarks, I have not decided if I am going to vote for the farm bill. Certainly, it is not a perfect piece of legislation. We have to weigh all aspects. Certainly, there are some provisions in this legislation about which I have concerns. I hope the majority leader and the chairman of the Agriculture Committee, working with ranking members, can get us off this stalemate so Republicans can move forward and can offer amendments. I have a number of them that I wish to have an opportunity to offer.

I yield the floor.

The PRESIDING OFFICER (Mr. CARPER). Who seeks recognition?

The Senator from Ohio is recognized.

Mr. BROWN. Mr. President, I ask unanimous consent to speak as in morning business for no more than 10 minutes.

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

TRADE POLICY

Mr. BROWN. Mr. President, the House of Representatives today passed a bilateral trade agreement with the

country of Peru. I was disappointed that there was another ratification in our Government of another job-killing trade agreement, a trade agreement that will mean more unsafe food at our kitchen tables and more unsafe toys, consumer products, in our children's bedrooms.

We have seen this over and over again. We saw it with NAFTA in 1993 when the year before NAFTA was passed, we had a trade deficit in this country of $38 billion. Last year, the trade deficit was literally 20 times that amount. President Bush I said every $1 billion of trade deficit or surplus translates into 13,000 jobs. So a $1 billion trade surplus means a growth of 13,000 jobs in our country; a $1 billion trade deficit means a loss of 13,000 jobs.

Do the math. When our trade deficit goes from $38 billion in 1992 to upstairs of $700 billion in 2006, we know our trade policy is not working. It is not working for our workers, it is not working when we have layoffs in Lima, Canton, Youngstown, Toledo, or Dayton. We have these layoffs, and look what it does to police, fire, and schools, layoff of teachers. All that comes from a failed trade policy.

Yet the House of Representatives again today passed another trade policy. We not only know that trade policy does not work for our workers and does not work for our communities where we have plant closings or, short of that, layoffs of large numbers of workers and services and our communities decline, from Galion to Gallipolis, from Avon Lake to Buckeye Lake, but we also know what these trade policies mean to consumer protection and food safety.

Almost every week for the last several months, we have seen a new recall. It might be toys, it might be tires, it might be toothpaste, it might be vitamins. Yet, literally, almost every week there seems to be a recall, often from China, but not always.

We are setting ourselves up. Think of it this way: In 2006, we imported $288 billion worth of goods from China. That $288 billion, tens of billions of dollars—if my math is right, that is about $700 million or $800 million every day from China—tens of billions of dollars for toys, consumer products, and food products.

Of those tens of billions of dollars, think about it this way: When we buy products made in China, the People's Republic of China, a Communist government, we know that Government puts no real emphasis on food safety, on consumer product safety, or on worker safety. So we are buying products from a country that puts no real premium on the safety of those products we are buying. That is the first problem.

The second problem is, when we import large numbers of toys, for instance—let's take toys as an example because we have seen that over and over—when we import large numbers of toys from China, we know American companies such as Mattel go to China and subcontract with Chinese companies. Then Mattel and these other companies say to the Chinese subcontractors: You have to cut costs, you have to cut corners, you have to make these products cheaper. What do they do? They use lead paint. Why? Because lead paint is cheaper, it is easier to apply, it dries faster, and it is shinier.

Mattel then brings these products back into the United States after they have told their Chinese subcontractor: You have to cut costs, you have to cut prices, you have to cut corners. They bring the products back into the United States with no corporate responsibility on their part. They bring them into our country. These toys end up in our children's bedrooms, these food products end up on our kitchen tables, and we have an inspection system that is increasingly falling apart, increasingly disintegrating.

We have fewer inspectors than we have ever had at the Consumer Product Safety Commission. That Commission, when it began two or three decades ago, was twice the size it is today, and we were not even importing products from China or other places around the world. They were inspecting tires two decades ago, mostly made in the United States. They were inspecting toys two decades ago, mostly made in the United States under pretty good conditions.

Today they have significantly less inspectors and tens of billions of dollars of products coming into this country from China, which doesn't have a consumer product safety commission of any import and doesn't have a food regulatory system, which we hold so dear in this country.

It is a perfect storm: You trade, buy tens of billions of dollars from a country that doesn't have consumer product safety rules, you have an American company importing products and is pushing, saying, you have to cut costs, pushing quality and safety aside, and then you have a Consumer Product Safety Commission in this country underfunded by the Bush administration, weakened by the administrators and the White House, that does not protect American children.

That is the problem with what we have seen at the Consumer Product Safety Commission. That is why it is time for Nancy Nord, the chairperson of the Consumer Product Safety Commission, to step aside. She is the acting chairperson but, unfortunately, we see a lot more inaction from her and from that Commission than action. It is time to put a chairperson in place who is not satisfied with saying: Well, we are doing the best we can. ''The best we can'' is a chairperson who understands his or her primary responsibility is to protect the safety of our children and the safety of our families.

Let me go a little further. Back around the time of Halloween, I asked Ohio Ashland University professor Jeff Weidenheimer to test 22 Halloween products for lead. He is a chemistry professor. He has looked into lead-based paint applied to consumer products, to toys, for some time.

The acceptable level of lead, according to the Consumer Product Safety Commission, is 600 parts per million for adults, and for children, the Consumer Product Safety Commission says the acceptable level is zero.

What Professor Weidenheimer found, of these 22 Halloween products, 3 out of the 22 were not safe. They had much too high levels of lead. For example, the Halloween Frankenstein cup, which I mentioned on the Senate floor before, contained 39,000 parts per million of lead. Again, the upper level of safety for adults is 600 parts per million. This was 39,000 parts per million. This was a Halloween Frankenstein cup that likely children are going to put to their lips and some of that lead will clearly end up in their system.

Forty years ago, we banned lead in paint. Now we need to ban lead in toys. We need to get tough enforcing safety standards abroad so we will not see these unsafe products coming in. We need to, most importantly, hold responsible those importers who are bringing those products into the United States, subsequent to their pushing their contractors to cut corners and cut costs. At the same time, we need a Consumer Product Safety Commission that is going to work.

A week or so ago, Chairwoman Nord of the Consumer Product Safety Commission was lobbying against the legislation submitted by our colleague, Senator PRYOR from Arkansas, that will make the Consumer Product Safety Commission work better. She said they have an adequate budget, even though their budget is half of what it used to be when it was an agency on the side of the public.

Everyone agrees on one point: We want more trade with countries around the world, but we want fair trade. First, more than anything, we want a trade policy that protects our workers, protects our country, protects our communities, protects our families on food safety issues, protects our children on consumer product safety issues. It is our first responsibility as Senators to protect our families and make our families safe. Part of the way to do that is a very different trade policy. Part of the way to do that is a very different Consumer Product Safety Commission. Part of the way to do that is for Chairwoman Nancy Nord to step aside and put somebody in whose first, primary responsibility that he or she will recognize is protecting American families.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. BARRASSO. Mr. President, I wish to discuss an amendment today authorizing the Minor Use Animal Drug Program. This is a program which carries out valuable research at land-grant institutions across the country for veterinary pharmaceutical research, such as research being done right now at the University of Wyoming.

This program is currently being administered by the USDA in cooperation with the Food and Drug Administration. It is identified as National Research Project No. 7. It is called NRSP–7.

Minor species industries nationwide represent about $1.5 billion in State and local farm revenues each year. Processing and export of minor species food and fiber projects represent an additional $4.5 billion in revenue each year. Now, individually, these minor species represent drug markets which are too small to cover the high cost of developing new veterinary drugs. As a result, few approved drugs are available to treat diseases in these minor animal species.

The USDA established a national Minor Use Animal Drug Program in 1982. So over the last 25 years, this program has been used to facilitate research for the drug approval process. NRSP–7 offers an opportunity for producers of minor animal species, such as sheep, goats, fish, and honeybees, to have veterinary drugs approved for their use. This project is of particular importance to the American sheep industry and to the people in the State of Wyoming. The American sheep industry produces a superior product. Lamb is a delicacy around the world. In fact, our recent guest, the President of France, enjoyed an American lamb dinner when he dined at the White House on Tuesday evening. I have no doubt his meal was exquisite thanks to the American ranchers who prepared those animals for the plate.

There are over 69,000 sheep producers in the United States. Those producers care for their animals and they produce valuable wool and lamb products for the country and the world. In Wyoming, 900 sheep producers care for close to a half million sheep. There are almost as many sheep in Wyoming as there are people, so it is almost a one-to-one ratio.

Nationwide, the sheep industry may be considered minor. Drug companies may not see profit potential in the sheep industry based on the nationwide numbers. But in Wyoming, we see opportunity, opportunity in the sheep industry, and we see a pressing need for development of veterinary drugs to promote growth of the sheep industry.

The industry is a big part of our heritage in Wyoming. Sheepherders have been incredible stewards of rangelands for more than a century. In Wyoming, we believe in a ranching way of life. We believe every man or woman who has the courage to work hard on the range can build a future for his or for her family, and they have. The sheep industry has supported that dream for thousands of people in Wyoming over the decades.

Sheep ranchers take care of their animals, and their animals provide a valuable industry. Treating animals for injury or for disease is a major component of a successful ranching business. The Minor Use Animal Drug Program offers sheep ranchers the same opportunity as other livestock operators to maintain a healthy herd and healthy businesses.

Having the right drugs to treat animal health problems is of great importance. New threats evolve each year and research carried out by the Minor Use Animal Drug Program helps keep the sheep industry up to date. To give a for-instance, NRSP's No. 7 research has led to approval of three drugs for respiratory diseases and two drugs for lung worms in sheep. Researchers are currently testing florfenicol for respiratory infections and a progesterone delivery method for breeding purposes.

Without sheep-specific research produced for these drugs, producers are left to guess at adjusting the doses from what they use in cattle and other animals. This can lead to problems of antibiotic resistance and it raises questions about drug residues in meat products. NRSP–7 provides the right research on appropriate drugs for responsible uses so that sheep producers know they are getting the best treatment for their animals.

The United States is far behind the rest of the world in vaccines, in reproductive aids, and in approved antibiotics for sheep and goats. NRSP–7 gives American sheep producers a fighting chance to keep up with the competition, and it is international competition.

It is not only the sheep industry that benefits from NRSP–7. For the last 25 years, NRSP–7 has facilitated drug approvals for species as varied as pheasants, quail, bighorn sheep, catfish, goats, partridges, lobster, shrimp, and the list goes on. At a time in our country when questions about animal disease are running rampant—when we face threats from avian influenza, from brucellosis, and from West Nile virus—it is the role of good government to protect human safety and animal safety.

Having well-researched and approved drugs at the ready to meet animal disease threats needs to be a priority for our Nation. NRSP–7 provides an opportunity for Government to create a level playing field for all agriculture sectors. Authorizing the Minor Use Animal Drug Program helps prepare us for the future and for the future of agriculture production.

I hope my colleagues will support this effort, this amendment to authorize NRSP–7, the Minor Use Animal Drug Program.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. CONRAD. Mr. President, the other day the administration issued a veto threat against the farm bill that is pending before the body. More precisely, the President didn't say he would veto the bill, his aides said they would recommend to the President the veto if the bill that is currently pending before the Senate went to the President.

We all know what that means in this town. It may sound like gobbledygook to almost anybody listening, but there is a nuance to what they are saying. The nuance is they are seeking negotiating leverage. That is what this is all about.

At the end of the day, I don't think the President is going to veto the farm bill. I think that would be a very unwise move on his part. But I rise today to talk about the chief complaint they raised. They asserted there is too much spending in this farm bill, so I thought it might be useful to look at the President's proposal and how much it spends compared to the spending that is in this farm bill. Since they are asserting there is too much spending in the farm bill that has passed out of the Senate Agriculture Committee, that is before the whole body now, what about their proposal?

Here is what I found. These are not my numbers. These are the estimates of the Congressional Budget Office. They say the bill before us that came out of the Senate Agriculture Committee will cost $285.8 billion over the next 5 years. But look at what they found the President's bill would cost over 5 years. Again, this is not my estimate. These are the professional estimates of the Congressional Budget Office. The Congressional Budget Office said the President's proposal over 5 years would cost $287.2 billion. In other words, the President's proposal costs more than the proposal that came out of the Senate Agriculture Committee. I wish to repeat that. The President's proposal costs more, over the 5 years, than does the proposal that came out of the Senate Agriculture Committee.

This is only a 5-year bill. I know the President's people tried to make it into a 10-year bill, but it is not a 10-year bill, it is a 5-year bill. The 5-year scoring of the legislation that came out of the Senate Agriculture Committee by the Congressional Budget Office says the bill before us would cost $285.8 billion and the President's proposal would cost $287.2 billion. So if our proposal costs too much, what does he say about his own proposal? What do they say about the proposal they have advanced?

Interestingly, in addition, we actually came up with the pay-fors. We

have completely offset the cost of the bill that is before the Senate. The Congressional Budget Office has so certified. They say we do not add a dime to the deficit. In fact, what they do say is we have a slight savings at the end of the day, $61 million over 5 years. That is what they say about our bill.

The President has never said how he would pay for his bill. So we have an irony here. The President criticizes our bill as costing too much. His costs more. We have specified how this bill would be paid for. He has never specified how his would be paid for.

On this question of the cost of this bill, we now have the latest calculations. These are the full and final calculations of what the forecast was at the time the last farm bill was written and the forecast now for this farm bill. It is very instructive. Again, these are the estimates of the Congressional Budget Office and the Congressional Research Service. These are not my numbers. These are not made-up numbers, unlike the numbers the White House used the other day, in which they tried to make a 5-year bill into a 10-year bill. It is not a 10-year bill. It is a 5-year bill. When you compare it on a 5-year basis to the White House proposal, our proposal costs less.

This extends the analysis and looks back at what the Congressional Budget Office forecasts the current farm bill would cost in relationship to all Federal spending. They said, at the time, the farm bill would be 2.33 percent, 2⅓ percent of total Federal spending. This is what they are saying the new farm bill will cost over the 5 years of its life: 1.87 percent of total Federal outlays. In other words, the proportion of total Federal spending in this farm bill is lower than the proportion of total Federal spending of the previous farm bill.

Agriculture's share of total Federal spending is going down and going down about quite a bit—about 20 percent. These are facts. In addition, regarding the commodity programs that are the ones that draw all the attention and all the controversy, the projection, when the last farm bill was written, was that would take up three-quarters of 1 percent of Federal spending. It turned out it didn't cost that much. It turns out it was one-half of 1 percent of Federal spending.

But look at what the Congressional Budget Office is telling us this farm bill will cost in the commodity area. They are saying it will only be one-quarter of 1 percent of total Federal spending; one-half as much as the previous farm bill. I didn't see the White House mention that. I didn't see them mention this farm bill is going to cost less as a share of total Federal spending than the last farm bill. I didn't see them say the commodity provisions that are controversial provisions, that were projected when the last farm bill was written to absorb three-quarters of 1 percent of Federal spending and wound up costing less, only one-half of 1 percent of Federal spending, is now, if this bill is approved, going to consume only one-quarter of 1 percent of Federal spending.

It would be nice if facts were at the basis of an analysis of this legislation. It would be nice if we were dealing with an accurate description of what this bill costs, in comparison to what the President's proposal costs. That would be a useful debate to have. Because, as I have indicated, this bill before us costs less than the President's proposal; in fact, $1.4 billion less than the President's proposal. And he is accusing us of having too much money in this bill? Come on.

In addition, we have completely offset the cost. This doesn't add one dime to the Federal deficit or debt. We have completely offset the cost. The President has never presented a plan for paying for his proposal, which costs even more.

In addition, I want to rivet this point: When you look back at the last farm bill, CBO said it would consume 2⅓ percent of total Federal spending. It turned out to be somewhat less. On commodities, they said it would cost three-quarters of 1 percent. Look at this bill. This bill now is estimated to only cost 1.87 percent of total Federal spending and the commodity provisions one-quarter of 1 percent.

What does this bill do? This bill is critically important to the national economy. It is critically important to people all across America. Sixty-six percent of this bill goes to nutrition, 9 percent of this bill goes to conservation, so 75 percent of the cost of this bill goes to nutrition and conservation. Those are needs that are equally and evenly spread all across America. Certainly, there are parts of the country that need more help and some less help but very broadly that money is evenly distributed across the country. The commodity provisions are less than 14 percent of the cost of this bill, and we now know they will consume only one-quarter of 1 percent of Federal spending.

In addition, this legislation has a critical national priority—to reduce our dependence on foreign oil. Mr. President, $2.5 billion in this bill is dedicated to reducing our dependence on foreign oil, to develop cellulosic energy that can help transform America's position in the world. Think how different our country would be if, instead of spending $270 billion a year buying foreign oil from Saudi Arabia and Kuwait and Venezuela and all the rest of the major oil producers, so many of whom are in unstable parts of the world—how different our country would be if that $270 billion were spent here, how different it would be if, instead of relying on the Middle East, we could turn toward the Midwest and the Southeast and the Southwest and the northeast for the energy supplies of America, how different it would look if that $270 billion, instead of going to Dubai, was going to America.

This bill is important for the country. When the President issues a veto threat, saying there is too much money in it, and his proposal costs even more, they have some explaining to do. They have some explaining to do.

I hope my colleagues are paying attention.

Before I conclude, I would like to once again thank the ranking member of the Senate Agriculture Committee, the Senator from Georgia, who has worked extremely hard to bring this bill to the floor. This is a bill with strong bipartisan support. He and his staff worked tirelessly to produce a professional product, one the country could be proud of.

I believe he and his staff, working with the rest of us, accomplished that. I believe this is legislation that is going to help change our country and change it for the better and do it in a way that will reduce our dependance on foreign oil and also do it in a way that will help improve the American competitive position around the world.

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

Mr. CONRAD. I will yield.

Mr. CHAMBLISS. I thank you for your kind comments. This is only my fifth year in the Senate, but I have never seen a situation evolve in a more bipartisan fashion than we have with respect to this farm bill. I commend you for, No. 1, your insight into ag issues, your insight into budget issues, your insight into finance issues, all of which, when melded together, have been so critical in putting this bill together.

Were it not for you and your commitment to the American farmer, we simply would not have this good product on the floor today. I see you have your staffer, Jim Miller, there. Were it not for Jim working very closely with my staff and Senator HARKIN's staff, there is no question that we would not be where we are today.

But your charts are of significant interest because you and I worked together on the 2002 farm bill. We both remember there was a lot of criticism directed at that farm bill, exactly the same criticism that has been directed at this farm bill today. As I remember, there was a veto threat by the White House in 2002. Is it not true the projected outlays in just the commodity title of the 2002 farm bill have been significantly lower, from an annual expenditure standpoint, than what was presented in 2002?

Mr. CONRAD. The Senator has a good memory. The Senator is exactly right. We saved $17 billion just from the commodity provision alone from what was projected at the time the last farm bill was written. Part of it was, we did a good job of fashioning an agricultural policy that when prices are higher, the support is reduced.

The result was very significant savings for the American taxpayer; in addition to that, a food policy that meant the lowest cost food, as a share of national income, in the history of the world. That is a fact. And by a long

way. We have the lowest priced food, as the Senator well knows, of any country in the world, and by a big margin.

We are spending 10 percent of our income on food. That includes food eaten at home and food eaten out. Other countries are spending, most of the industrialized world, 14 and 15 percent. That is just for food eaten at home. So we are beating them by a country mile.

Mr. CHAMBLISS. If the Senator would continue to yield for a question, is it not true when we talk about reforms between the 2002 farm bill and this 2007 farm bill, that you mentioned the figure of about 14 percent of this farm bill is spent on the commodity title; that in 2002 about 28 percent of the expenditure in the farm bill was dedicated to the commodity title? So when somebody says we have not reformed the commodity title, that we have not reformed this farm bill, would the Senator not agree there is significant reform just in the pure dollars that are being dedicated to the commodity title?

Mr. CONRAD. Well, once again, the Senator is exactly right. We can go back. These are not my numbers, these are not your numbers, these are not the Agriculture Committee's numbers. These are the numbers of the bipartisan, nonpartisan, Congressional Budget Office.

When the last farm bill was written, they said the commodity programs would consume three-quarters of 1 percent of the Federal budget. They say this farm bill, the commodity programs will consume one-quarter of 1 percent.

Now, in fairness, they were wrong in the last farm bill. The last farm bill did not cost three-quarters of 1 percent of Federal expenditures, it cost one-half of 1 percent. That is still double what this bill does as a share of Federal spending.

Sometimes you wonder when you read these press statements by some of the national media, what are they writing about? They are not writing about this bill because they clearly have not analyzed the bill. It is as clear as it can be that we have dramatically reduced the share of this bill going to commodity programs. We have dramatically reduced it on any measure.

In addition, there are, as the Senator well knows, two of the most significant reforms that have been the goal of reformers, and I have always considered myself a reformer. No. 1, we have the end of the three entity rule, and, No. 2, we have the requirement for direct attribution of payments to living, breathing human beings, rather than paper entities.

Anybody who does not recognize that is significant reform does not know much about agriculture policy.

Mr. CHAMBLISS. Well, again, if the Senator would yield, I say this is not a perfect product. It is not maybe exactly what you would like or what I would or what Senator HARKIN would like, or any member of our committee or this body. But when you take the interest of agriculture all across America, I think this farm bill truly represents the needs of American farmers. It represents the needs of our nutrition folks around the country, whether it be the School Lunch Program, our food banks, or our food stamp beneficiaries.

It represents the needs from a conservation standpoint, both farmers and nonfarmers who want to maintain the integrity of the land and the environment. It looks at the needs from a research standpoint, looks at the needs as you mentioned from an oil dependency standpoint, and helps move us in the direction of becoming less dependent on foreign oil.

At the same time, it does it, as the Senator well knows because he is chairman of the Budget Committee, within the numbers that were given to us by the Budget Committee. I daresay this is the first bill that has hit the floor this year that does, in fact, stay within the budget numbers.

We can argue about that, but the fact is, we were given a budget number by your committee, and we had to craft a farm bill that gave us significantly less money than what we had in 2002. With your leadership, and Senator HARKIN, we have been able to craft a farm bill that fits within those budget numbers.

Mr. CONRAD. Well, let me say if there were a model around here for fiscal rectitude, this bill would be it because not only does this bill come in within budget, it came in under the budget. As you know, there was a reserve fund created to take advantage of these opportunities that everyone recognized for our country in energy. So there was an extra $20 billion passed by both Houses of the Congress to be available for the Committees on Agriculture to write a farm bill, with the thought in mind that those resources would go for the energy opportunity and to deal with enhanced conservation.

And what happened? This committee has come in only $8 billion above the so-called baseline, so well under the amount of additional resources that were allocated by both Houses of the Congress.

The occupant of the chair now is a very valuable member of the Senate Agriculture Committee, the distinguished Senator from Nebraska, someone who has a very strong business background, someone who was Governor of his State, someone who balanced budget after budget after budget in that State, and someone who is very attuned to being fiscally responsible, I might add.

I want to tell him we have just now gotten the numbers that show what our bill costs, the bill that came out of committee, the bill that is on the floor of the Senate right now, compared to the President's proposal.

The President, through his staff, did not issue it. We have to make that clear. His staff said they would recommend to him a veto. They said the problem with it is we spend too much money. Well, now we have been able to compare what the committee did and what the President proposed. Guess what. The President's proposal, according to the Congressional Budget Office, costs $287.2 billion over 5 years.

Our bill, the bill that is on the Senate floor, is $285.8 billion. In other words, the President's bill, the President's proposal, cost $1.4 million more than ours—not by my scoring, not by the Agriculture Committee's scoring, but by the scoring of the Congressional Budget Office.

That is on a 5-year bill. Now, the President came up—the President's staff, not the President—the President's staff came up with all kinds of almost bizarre ideas. They tried, in part of our bill, to turn a 5-year bill into a 10-year bill. They did not do that with his proposal. But with ours, they tried to take some of the provisions and make them 10-year provisions, and they are 5-year provisions.

The fact that there will not be money for some of these things if the next farm bill does not find money to provide for them, those things will end. This is a 5-year bill. And the 5-year scoring shows ours costs less than the President's—less.

So I would expect by probably late this afternoon, Mr. Conner, who is acting as head of the Agriculture Department, will issue an apology to us and no doubt have a press conference with the national media and acknowledge that the Congressional Budget Office has found that their proposal costs more than ours.

I wait with great interest and anticipation that press conference by Mr. Conner to acknowledge that after new review, and after having an objective third-party analysis of our two proposals, they find ours costs less than theirs, and there will be an apology forthcoming to all of us who crafted this legislation.

I eagerly await the announcement of that press conference. Again, I thank the ranking member of the committee for his determination to give good farm legislation for this country, legislation that is not just good for farmers and ranchers, but legislation that is good for taxpayers of this country, legislation that is good for all those who benefit from farm legislation, who are well beyond the farm and ranch gate.

Because, as I have indicated, 66 percent of the funding in this bill is for nutrition, 9 percent is for conservation, three-quarters of the money in this legislation is spread broadly across America.

In addition, there is money for research. In addition, there is money for trade to make us more competitive. There is money for rural development, and there is money for energy to make us less dependent on foreign oil. The commodity provisions, the ones that draw all the controversy, are down to 13.8 percent of the funding. They will account for only one-quarter of 1 percent of Federal spending, according to

the Congressional Budget Office. This committee has done its work and done it well.

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

The PRESIDING OFFICER (Mr. NELSON of Nebraska). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. CONRAD. Mr. President, I would like to take a moment to thank the staff of Senator CHAMBLISS, my own staff, and Senator HARKIN's staff who worked night and day, weekends, night after night, late into the night on this legislation. They are the unsung heroes. They get too little attention. We are out front. We are the ones who get talked about as helping to craft this bill. I emphasize the extraordinary efforts and performance of staff members from the three Members who worked to put this bipartisan compromise together.

From the staff of Senator CHAMBLISS, Martha Scott Poindexter is somebody who has great credibility with my office. She has been extremely professional, worked very hard, has very good judgment, and deep knowledge. We appreciate the attitude she brought to this effort. Vernie Hubert is another absolute first-class professional on the staff of Senator CHAMBLISS who was great to deal with throughout the process. Vernie Hubert is somebody who spent the time to understand the implications of this legislation. We are talking about major legislation. It was held up the other day, but this is what I am talking about. This is an incredible effort, to do it and do it right. I acknowledge the excellent work of the staff of Senator CHAMBLISS.

I have expressed the high regard I have for Senator CHAMBLISS, but Senator CHAMBLISS has been ably assisted by Martha Scott Poindexter, Vernie Hubert, and many more whom I have not dealt with.

On the staff of Senator HARKIN, I wish to single out Mark Halverson, staff director, and Susan Keith. They have done an extraordinary amount of work, brought dedication to this effort. We thank them for it.

On my staff, Jim Miller, who knows more about these farm bills than any living human being, has such an absolute commitment to helping family farmers and ranchers. Scott Stofferahn is my staff director back home. He ran the Farm Service Administration in my State. He was a leader in the State legislature and is my very close friend and confidant, somebody in whom I have absolute confidence.

Tom Mahr, my legislative director, is one of the smartest people I have ever had working for me. He led the negotiations that involved the relationship of Finance Committee funding and Agriculture Committee funding and helped make sure all of this adds up. He did a superb job. John Fuher is relatively new to my staff but comes from a North Dakota farm family, as straight an arrow as one could ever ask for, somebody who absolutely believes in the importance of family farm agriculture to the economic strength of the country. He comes from a wonderful family and acquitted himself very well. I was amazed at the responsibility John took on in this process. Miles Patrie, another young member of my staff, did a terrific job as well. They were assisted by Joe McGarrey, who is my energy aide and who played a central role in negotiating the energy provisions of this bill.

I thank them. Some people have an idea that the people who work in public service have cushy jobs. I wish they could see the work these people have put into this over the last 4 months. I wish they could see night after night, many nights here until 1 and 2 in the morning, weekend after weekend, here late on a Friday, then all day Saturday, then all day Sunday, and then right back here Monday morning and then late every one of these nights, week after week after week. To anybody who does not understand the commitment of people who have done this work, the fact is, virtually every one of them could make a lot more money downtown. They could make a lot more money down on K Street. They have an abiding interest in serving the public and doing right. They have done right on this bill. I am intensely proud of all of them.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. SALAZAR. Mr. President, I come to the floor this afternoon to talk about one of the most important bills that will come before the 110th Congress and that we will be considering for this country at the beginning of this century, and that is the farm bill. I wish to specifically address both the disaster fund, which has been created under the great leadership of our committee chairs and committee membership, as well as later on address the issue of energy and the importance of the energy provisions in this bill.

At the outset, I, again, thank both Senator HARKIN and Senator CHAMBLISS for their leadership in producing a farm bill that has had tremendous bipartisan support coming out of that committee. I also wish to thank all members of that committee who worked so hard over the last 2 years to deliver a product we can all be truly proud of as members of that committee.

But it is not just the Senators who have the privilege of serving on that committee and coming and speaking on the floor; it is also the staffs of each of the Senators—on my staff, Brendan McGuire and Grant Leslie, and others who have worked so hard on this issue, but also people such as Mark Halverson, who have devoted their lives entirely to this legislation for the last couple years, along with Martha Scott Poindexter in Senator CHAMBLISS's office. To them I say thank you.

I thank Senator CONRAD for his great work and understanding of the budget and trying to pull together what truly is a fiscally responsible product for energy legislation, as we move it forward. I thank Senator GRASSLEY and Senator CHAMBLISS for their leadership in helping us pull all the pieces of this together.

Today I rise to speak briefly about the disaster trust fund which we have created in the farm bill and to voice my continued support for this aspect of the farm bill, with the hope that we are able to get this aspect of the legislation across the finish line, together with the rest of this farm bill, because it is so important to farm country.

It is no secret the commodity prices in the business section sometimes are not good indicators of how individual farmers and ranchers are doing. For example, if corn prices are up—as they have been during the last year—that does not necessarily mean farmers and ranchers in counties such as those in the Presiding Officer's State of Nebraska or those in Baca County or Yuma County in Colorado are doing well. That is because sometimes some of our cattle producers in those circumstances are not having an easy time.

I can tell you that when we look at $3-a-gallon gasoline and $3-plus, $3.10-a-gallon diesel, it creates a hardship on the farmer. But, more importantly, what happens on an annual basis is we have to face the weather. Perhaps more than any weather vane, and those from the city who end up watching the weather on the 10 o'clock news, a farmer is more attune to what is happening in the seasons simply because they know the weather essentially is controlling their destiny.

They know when the frosts come in the fall. They also know when the last of those frosts leaves, so they can then make sure, as their plants start sprouting from the ground, they have the possibility of growing a crop. They also know, as they watch the clouds that come over the horizon, that when those clouds have a certain look of white on them, there is a possibility there is a hailstorm on the way, and that crop they have worked on—for which they have plowed the ground and planted the seeds and put in the fertilizer and done the irrigation and have nurtured—all of a sudden, in the course of a few minutes, could all be gone because a hailstorm wipes out the entire field.

That certainly has happened to my family. It has happened to me, and it has happened to those of us in this Chamber who have been involved in agriculture in our past. From one second to the next, what seems to be a promising and hopeful year—where you can be optimistic about the future and be in a position where you can make ends meet—can turn into a situation where all of a sudden you have to wonder whether you are going to be able to survive into the next year because you do not have the dollars to be able to pay off your operating line at the local bank. That happens time and time again across rural America.

For example, when you look at the issue of drought, in my State of Colorado, as is the case in many parts of eastern Kansas and some parts of the Presiding Officer's State of Nebraska, we know what drought has done to our communities. We know what drought has done in places such as the home State of the Senator from South Dakota over the last several years.

That is why in this body we have come together—the Presiding Officer, Senator THUNE from South Dakota, Senator CONRAD, Senator DORGAN—a whole host of us, to try to deal with the reality of disaster emergencies that affect rural communities in agriculture.

This picture I have in the Chamber has to do with the story of a farmer in my State who, through no fault of his own, has had to weather now the 6 years of drought that has affected my State that has put many farmers in a position where they either have lost their farms or have gotten to the brink of losing their farms.

But it is not just the droughts. For sure, we have had those droughts. For sure, in my State, I guess 6 years ago now, in 2001, we had the most horrific drought in the history of our State for an over 500-year period of time. It was the driest year on record for 500 years. The consequence of that was our farmers and our ranchers in rural Colorado suffered a great deal.

But it is not just the drought. It also comes with other weather-related events, such as a blizzard. I show you a picture of the blizzard that hit the southeastern part of my State, where thousands upon thousands upon thousands of cattle were killed because of this unexpected blizzard that piled up drifts that were as high as the telephone and utility posts we see in this picture.

You could drive across the southeastern part of Colorado and see carcass after carcass of cattle—dead cattle—on the highways and throughout the fields because of this devastating storm that had knocked out the future of so many ranchers in my State. So it is important we move forward in the proactive manner in which this legislation has moved forward to create a disaster emergency fund.

Typically, in Washington, when we see these kinds of disasters, what happens? How do we respond to the farmers and ranchers who provide the food security for our Nation? We move forward and say we must provide disaster emergency assistance.

The process, in its typical fashion, follows this order: First, the Governor gets concerned, and then the U.S. Department of Agriculture declares a disaster. Following that, Congress authorizes emergency spending. The bill sometimes gets stalled, and then farmers and ranchers have to wait not weeks, sometimes months, and, in fact, sometimes 2, 3 years before there is any help on the way.

That kind of wait, in many cases, is no help at all. So we must do things differently. We must do things differently because, first of all, we are not delivering disaster assistance efficiently and effectively. Second, we should not be relying on emergency spending to provide disaster assistance. We need to put these expenditures back on the books.

(Ms. KLOBUCHAR assumed the Chair.)

Mr. SALAZAR. Madam President, Congress has passed 23 other ad hoc disaster assistance bills since 1988. Since 1988, 23 ad hoc disaster assistance measures have been passed by the Congress.

Now, if this is not an indicator of the need for the creation of a permanent mechanism to deal with these disasters in farm country, I do not know what better indicator we need. Twenty-three emergency disaster pieces of legislation have passed this Congress since 1988.

I am supportive of that assistance, but we need to deal with this problem in an effective way and on a long-term basis. That is what we have done in the legislation. The members of the Agriculture Committee—and the Presiding Officer, as a member of that committee, has done a tremendous job in her freshman year as a Senator, contributing in a huge way to many of the titles we have included in the farm bill, including helping write significant portions of title IX, the energy part of the farm bill. I am very proud of her contribution.

But what we have done in this bill with respect to permanent disaster assistance is to work with Senator GRASSLEY and Senator BAUCUS and members of the Finance Committee, in a proactive way, to create a permanent trust fund for disaster assistance.

The disaster trust fund will dedicate over $5 billion during the next 5 years to disaster relief. This will allow us to maintain discipline and high standards for determining when to pay out disaster funds, and it will allow producers to get help more quickly. The trust fund also brings disaster relief back onto the books so it is part of the budget of the national Government. This is a smart and fiscally responsible move.

I have spent a lot of time in my life in rural communities—living there, making a living there for part of my life—and as a Senator and as attorney general for my State, I have been in all 64 counties in my State many times over the last decade.

Now, I do not buy the argument that all is well in farm country. I believe we have huge problems in farm country.

During the 1990s, in my State of Colorado, many of the counties in my State were deemed to be some of the fastest growing, more robust economic counties in terms of growth in the United States of America. The State of Colorado was seen as one of the fastest growing States in the entire Nation, and everybody was singing hallelujah to the kind of economic blessings that were being showered upon my State of Colorado. But if you traveled through 44 of the 64 counties in my State, you would have to say those counties were, in fact, doing as badly as they were in the 1970s and the 1980s and the 1990s. Indeed, not much has changed. In fact, the economic decline, including population decline, in those counties continues to be a reality and a way of life. In many of those communities where there used to be three grocery stores, now they were down to zero, and in many of them perhaps one. In many of those places where there used to be three filling stations, they were down to zero filling stations and perhaps only one.

In fact, in the town closest to our ranch, the town of Manasa, CO—this is a story of what has happened there. When I was growing up there and going to school at Manasa Elementary, I remember the three stores on Main Street. I remember the gas stations on Main Street. Well, today we are down to one gas station, and we are down to one small grocery store in the town of Manasa. So not all is well in farm country.

So today and this week and next week as we work on this farm bill, it is our effort to try to make sure rural America is revitalized. So this is an opportunity for us to make sure we reinvigorate and revitalize rural America and create a whole new chapter of opportunity.

This disaster trust fund which we are creating will help us deal with disasters. The other parts of the farm bill will also create huge opportunities for rural America.

I will conclude by saying this—because there will be other times when we will come to talk about other parts of this farm bill. For me, one of the most exciting chapters of this farm bill for 2007 is, we are creating the opportunity for rural America, for farmers and ranchers to help grow our way to energy independence. This is not a Democratic or a Republican issue; it is not a progressive or a conservative issue. This is an issue of national security for the United States of America. That is why so many people have come together to celebrate this agenda that we are embracing on a clean energy future for America. That clean energy future for the 21st century for America,

in my mind, is based on the inescapable drivers which we see here today.

First, it is about national security because as so many people have said, our addiction to foreign oil must come to an end because it is jeopardizing the national security of the United States of America.

Secondly, the environmental security of our country requires us to stop ignoring the problem of global warming, and what we do with energy is inextricably mixed in with how we confront the issue of global warming.

Finally, the economic opportunity that comes along with embracing a clean energy future for America is an incredible opportunity for all of the United States of America, but it presents a particularly positive opportunity for rural America. That is why there are many Members of this Chamber who have come together and supported the passage of a resolution which was crafted by Senator GRASSLEY and myself, which is called the ''25 by 25'' resolution, which sets forth a vision of a country where we will see our country produce 25 percent of all of our energy needs from renewable energy resources.

So at the end of the day, the passage of this farm bill is important for a lot of reasons. It is important for our food security, our national security, our environmental security, our economic security. So we do not have an option on this bill. We cannot not pass this bill. This bill must pass this Chamber with a significant bipartisan vote, as I am sure that it will, and at the end of the day, it is my hope President Bush, as President of the United States, will stand up also for rural America and say he is going to sign this bill because it is so necessary for the future of America and for the future of rural America.

Madam President, I yield the floor.

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

Mr. THUNE. Madam President, I thank my colleague from Colorado for his comments, and the Presiding Officer, also members of the Agriculture Committee. We all worked together as has been mentioned. This was a bipartisan effort, and the product, I believe, has broad bipartisan support not only in the Agriculture Committee, but I think in the entire Senate.

It is important we get this bill under consideration. We are currently being blocked from considering amendments to it, and I hope the majority leader and the leadership on our side can come to some agreement about how we are going to proceed with regard to amendments because we don't have a lot of time left on the clock this year. It is critical that we get a farm bill passed so our producers across this country who are already beginning to make decisions about next year when it comes to planting, and lenders who are going to finance them, have some certainty about what the programs are going to be, what the rules are going to be as they begin to engage in making those decisions.

So I hope we can get this bill moving. It has been on the floor now for the past few days. ''On the floor,'' I use that term loosely because for all intents and purposes, action on it has been stalled. It is important that we come to an agreement about how we are going to proceed and what amendments we are going to debate and vote upon. But we need to get a bill through the Senate and into conference with the House and, hopefully, eventually on the President's desk before the end of the year.

I do want to express my appreciation to the leadership on the committee: Senator HARKIN, the chairman of the Agriculture Committee, and the ranking member, Senator CHAMBLISS, for their efforts and leadership on the bill; also, my colleague from North Dakota, Senator CONRAD, who is chairman of the Budget Committee, and Senators BAUCUS and GRASSLEY, who are chair and ranking member, respectively, of the Finance Committee for their efforts in helping us craft funding that would allow the Agriculture Committee to draft a workable and what I believe is an effective farm bill which will move agriculture forward for the next 5 years.

As was noted by my colleague from Colorado, writing farm policy is more regional than it is political. I commend my colleagues on the Agriculture Committee who represent literally every geographic region in the United States for their tenacity in representing the interests of their State as we drafted the farm bill. Most of all, I commend them for the respect they have exhibited throughout this farm bill drafting process to the various needs of each Member's State.

Also, together the committee has drafted a bill I believe is something we can go home and talk proudly about not only in South Dakota to my farmers and ranchers, but also to our Native American tribes and to every man, woman, and child in South Dakota and across this country who enjoy the safest, most affordable food supply in the world.

The 2002 farm bill, which I helped draft as a member of the House Agriculture Committee, very successfully provided economic support to America's farmers and ranchers when prices dropped below the cost of production. Yet this same farm bill—this same farm bill saved American taxpayers $20 billion over 5 years when prices improved and its economic safety net components were not triggered, which is good policy, and precisely the way it was intended to work.

Thanks to the success of the 2002 farm bill, we had $22 billion less in the Commodity Credit Corporation baseline to write the 5-year, 2007 farm bill than CBO had estimated in 2002.

This farm bill addresses three of my highest priorities for the 2007 farm bill, and I would like to speak briefly, if I might, to each of those. As I said earlier, first, it must provide an economic safety net for American agriculture.

Today's farmers and ranchers face multiple uncertainties thanks mostly to the weather. Yet our Nation's farmers and ranchers not only feed every American, they help feed billions of others across the globe. They are expected to provide this food economically—and have done so—often at prices lower than their production costs. Thankfully, commodity and livestock prices are higher now than they have been for most of the past decade, but so are input costs such as fuel, fertilizer, and chemicals. Those things have all gone up as well. The 2007 farm bill needs to continue with safety net provisions that support agriculture when commodity prices drop because input prices will not drop accordingly.

The provision in this farm bill which extends the current farm bill countercyclical program accomplishes this price protection. Yet as I stated earlier, it is of no cost to taxpayers when commodity prices reach the levels we are experiencing now.

Permanent disaster coverage is another farm bill essential I have been fighting for over the past several years, and I am pleased it is also included in the 2007 farm bill.

In agriculture's uncertain economic future, direct and countercyclical payments, a permanent disaster program, and a healthy crop insurance industry are all important to a sound economic future for South Dakota agriculture.

So the economic safety net for American agriculture is a critically important priority in this farm bill. It is addressed. It maintains the basic framework that has worked so well from the 2002 farm bill which, as I said earlier, actually has saved the taxpayers billions of dollars over what was projected at the time because as prices went up, commodity prices went up, subsidy payments went down, which is precisely the way the farm bill was designed to work. We build upon that in the safety net of the 2007 farm bill.

The second priority we need to have in this bill is this farm bill needs to include alternative energy development and expansion. Alternative energy; namely, corn-based ethanol, has already changed the American agricultural landscape and has given many farmers and local economies renewed hope for the future. However, we recognize the limitations placed on corn-based ethanol, simply due to the number of acres that can be devoted each year in this country to producing corn. Thanks to the groundwork that was laid by corn-based ethanol, cellulosic ethanol is positioned to complement corn ethanol.

The energy title in this farm bill contains the sustainable cellulosic ethanol production incentives that were laid out in my Biofuels Innovation Program legislation, which I introduced earlier this year along with Senator BEN NELSON from Nebraska. Cellulosic ethanol produced competitively will not occur on its own. It is imperative these incentives are included in the 2007 farm

bill to kick-start the cellulosic ethanol industry.

The energy title in this bill also includes $25 million in mandatory spending for the Sun Grant Initiative, which is already established in land grant universities across the United States and which has made great strides in research and development of cellulosic ethanol.

I want to come back to that point in just a minute, but I also want to address what I think is the third important priority in this particular farm bill and that is a sound conservation title.

Conservation should not compete with production agriculture; rather, it should complement it.

Along with uncertain weather conditions, our Nation's agricultural landscape with its fertile and productive farmland is also peppered with millions of acres of marginal and fragile lands. The conservation title of this farm bill includes an assortment of conservation programs that include tools for farmers and ranchers to exercise sound land stewardship in unison with maximizing crop production.

My home State of South Dakota is unique in that along with its high ranking as an agricultural State, wildlife and outdoor recreation contribute mightily to its economy as well. I believe the conservation title included in this farm bill will assist South Dakota farmers and ranchers in their efforts to maximize agricultural output, protect and enhance its fragile lands, and help keep our State's recreational industry vibrant and healthy.

Additionally, $20 million is provided per year to fund the Open Fields Initiative. Open fields underwrites State programs, such as the 1 million-acre program in South Dakota that offers incentives to farmers and ranchers who voluntarily open their land to hunting and fishing.

I believe this farm bill targets a higher percentage of Federal farm program payments to family-sized farming operations. Several modifications to payment caps and the elimination of the three entity rule included in this bill are a step in the right direction to providing assistance where it is most needed: to family farmers and ranchers across America.

However, those who criticize farm policy must be careful in their characterizations of ''large-scale'' farmers. A family farming operation consisting of a father and one or more offspring in today's agricultural scale can easily gross several million dollars, while providing a modest living to the family members. We don't want to shut the door of these family operations by taking away economic safety net programs or the conservation tools they need to productively farm.

Americans' health and nutrition is a major consideration in this farm bill as well. For example, of the total budget outlays in this farm bill, 67 percent of the amount falls under the nutrition title, compared to less than 15 percent for the commodity title, and 9 percent for the conservation title. In the Senate farm bill, the Fruit and Vegetable Program, a part of the School Lunch Act which was previously restricted to a number of States, would be expanded to operate in every State in the country. Additional funding would be made available to each State based upon the proportion of the population of a State to the population of the United States.

Additionally, a provision I offered, which is included in the farm bill, expands the fresh fruits and vegetables School Lunch Program to over 100 Indian reservations nationwide.

Mr. President, one of the problems we encounter when drafting farm legislation, when commodity and livestock prices are higher, is the perception that these high prices will last. A farm bill lasts only 5 years. We have no guarantee current prices will remain steady for the next 5 years. Anybody who has been associated with production agriculture for any period of time will tell you these prices we are experiencing currently are not going to last permanently.

The 1996 farm bill was written during a higher commodity price cycle, with not enough thought given to how the policy would work when prices dropped. During the last 2 years of that farm cycle, billions of dollars in market loss assistance payments were issued because of an inadequate ''safety net.''

The current direct payments structure included in this farm bill is a fixed payment based upon historical planting, not current crops, yields, or prices. This decoupling keeps the United States more compliant with international trade agreements.

Mr. President, I encourage my colleagues to support this farm bill. I ask them to carefully consider the countless hours of discussion and negotiations, the numerous field hearings held by the Agriculture Committee across the country, and the voices of the American people that have been heeded by the Agriculture Committee in writing this bill.

As noted earlier, this is not a perfect bill. There has been no perfect farm bill in my experience, and I have been associated with several as a former staffer, and now as a Member of the Senate, and prior to that, as a Member of the House of Representatives.

This is a balanced farm bill that will make America a better place for all of us and will make rural America stronger. It includes the important components I talked about: A strong safety net that includes the disaster title of the bill, which is something we fought long and hard for; a strong energy policy that will help encourage and provide financial incentives for the development of cellulosic ethanol production in this country; and a strong conservation title and, as I said earlier, a tremendous investment in the nutrition title of the bill. It is all done in a way the CBO says is paid for.

I think it is important, as we move the bill forward, we help people across this country understand what is at stake in a farm bill. I think a lot of people across the country sometimes fail to grasp the importance of making sure we have a safe and reliable and affordable food supply in this country. If you look at other countries in the world—such as in Europe—they know what it is like to go hungry.

One of the reasons we have had farm policies in place for some time is because Americans learned during the Great Depression we have to have a strong farm economy that meets the food needs of people in this country.

The other thing I will mention—and I will come back to it because I said I would—is that this traditionally has been a farm bill that deals with food and fiber for the American people. I believe we are making a transition as well. In this particular farm bill, it is not just about food and fiber, it is also about fuel. I believe we have a responsibility as Members of Congress to do everything we can to lessen our dependence upon foreign sources of energy. I am deeply concerned about the future of this country when oil prices are approaching $100 a barrel and gas is over $3 a gallon, with no end in sight. We have little or no control over that because 65 percent of our petroleum comes from outside the United States from foreign cartels.

I happen to believe, as a matter of principle and practice, it is better for us, as a country, when it comes to buying our energy, to buy it from an American farmer where we are adding jobs and growing the economy in this country than giving our money to some foreign cartel that might use it to fund a terrorist organization that will turn around and attack the United States. That is why the energy policy of this particular farm bill is so important.

I have an amendment that has been filed, along with Senators DOMENICI, DORGAN, JOHNSON, and NELSON—I believe the Presiding Officer is on it as well—which would expand the renewable fuels standard beyond where it is today. The standard we adopted in the 2005 farm bill calls for 7.5 billion gallons of renewable energy by 2012.

Mr. President, we are going to hit 7.5 billion gallons by the end of this year. It is important for those who are investing in the ethanol industry, for our farmers and for those making decisions about whether to build another plant—and a lot are planned and under construction. We have 13 ethanol plants in South Dakota, and four are under construction. We have ethanol plants all across the country in some phase of construction that have been stopped cold because of the uncertainty about the future of the industry. When we blow by 7.5 billion gallons of production of ethanol, we need to know what the future holds.

The Energy bill contained a provision that expanded the renewable fuels

standard to 36 billion gallons by 2022. We have said we hope the Energy bill passes, but in the event it doesn't—and that looks to be uncertain—we ought to try to get that renewable fuels standard passed as part of this farm bill. It improves and strengthens the energy title in the farm bill by guaranteeing there is a market not only 10 years from now, or in 2022, when it calls for 36 billion gallons, but next year, in 2008, when we have already gone by the 7.5 billion-gallon cap called for in the 2005 bill.

This amendment would get us to 8.5 billion gallons by next year. So there would be another billion gallons of ethanol production called for in the renewable fuels standard. That is of immediate concern to this industry. We need to grow the industry. If you look at the statistics, in 2006, the production and use of ethanol in the United States reduced oil imports by 170 million barrels, saving $11 billion from being sent to foreign and sometimes hostile countries.

This is an industry we need to continue to support. When we get 65 percent of our petroleum needs outside of the United States, it is critical we continue to develop home-grown energy we can make from renewable sources in the United States, which is not only good for the economy and the environment, but for our energy security. I hope during the course of the farm bill debate, when decisions are being made about which amendments to allow to be considered and debated and voted upon, the renewable fuels standard amendment is on that list. I think it is that important. I don't think there is anything, frankly, more important that we can be doing, with the exception of ensuring there is a good, strong safety net in the bill that will help secure American agriculture for the future, help keep this growing renewable fuels industry prospering and expanding and doing what they do best, and that is reducing our dependence upon foreign energy, having a renewable fuels standard in place that expands dramatically beyond where we are today.

As I said before, there are great incentives in this bill for cellulosic ethanol production. People say we are running out of room or ceiling when it comes to corn-based ethanol. That may be true. We believe it is about 15 billion gallons that we can get from corn, and then we have to figure out how to make it out of some other form of biomass. But there is investment going on in R&D and technologies that, I believe, is going to be commercialized in the near future that will allow us to use switchgrass, wood chips, and other types of biomass. There is a project in South Dakota right now to make cellulosic ethanol from corncobs on a commercial scale. According to POET Energy, using more of the corn crop for ethanol production, such as corncobs, will be able to produce 11 percent more ethanol from a bushel of corn and 27 percent more from an acre of corn.

So we are already beginning to make a transition from the kernel of corn to the cob and dramatically increase the amount we can produce. Couple that with the research going into producing ethanol from switchgrass, blue stem grass, wood chips, and other types of biomass, the sky is the limit.

It is important we keep this going. We are facing a serious crisis, in my view, if we don't expand the renewable fuels standard. Frankly, I hope we increase the blends that are allowed of ethanol, blended with a gallon of gasoline, from the current 10 percent to a higher level—I hope to 20 percent—which would act in a dramatic way to double the market for ethanol. These are steps we need to be taking as a country, as a Congress, if we are serious—and we need to be serious—about this problem we have today of nearly $100 a barrel of oil, with no end in sight to where it is going, and us having no control of that because we are so dependent upon foreign sources of energy.

The amount of ethanol we produce in this country, it could be argued, maybe isn't all that significant to the amount of gasoline we use—7.5 billion gallons of ethanol, and we use about 140 billion gallons of gasoline every year. When you talk about displacing 170 million barrels of oil, saving $11 billion from being sent overseas to some foreign country, a foreign cartel, that is $11 billion that is staying right here on American soil, investing in American jobs and in the American economy.

This is an industry we need to keep going. I hope the renewable fuels standard amendment will be included in that list and, as the bill progresses through the process, I hope we can get a product through in the near future so that we can pass it, go to conference with the House and, hopefully, ultimately, get a bill on the President's desk. At that point, we will have the challenge of getting the President to sign the bill.

I think the bill is made stronger by these energy provisions being included because I think it is so important to America's future—not just to the future of agriculture in South Dakota or Colorado or places like that, but to America's future. This farm bill takes us in a great direction, and the renewable fuels standard amendment will make it that much stronger.

I hope we can get into the deliberations about this and that we can get working on amendments and voting on amendments and getting a bill passed, with a big bipartisan vote, that we can send to conference and on to the White House that will put in place a policy for the next 5 years that will make agriculture strong, make America competitive in the world marketplace, and make sure we have food, fiber, and fuel for America's future.

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

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

The legislative clerk proceeded to call the roll.

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

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

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

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

COMMITTING TO VETERANS

Mrs. MURRAY. Mr. President, I come to the floor this afternoon to talk about something that has been a priority for me and for many of my colleagues; that is, our veterans. As we all know, Sunday is Veterans Day, the day that is designated for us to thank our Nation's heroes for their service to our country. It is also a time to ask whether our country has done enough to repay our veterans for all they have given to secure our safety.

As thousands return home from the wars in Iraq and Afghanistan, some now from their fifth tour of duty, I wish I could say the answer to that question is yes. But, tragically, this has not yet been an issue of priority for this administration. We have too often failed to provide the care our heroes have earned. From the shameful conditions at Walter Reed and VA facilities around the country we saw earlier this year, to a lack of mental health counselors, to a benefits claims backlog of months—and I am even hearing years—our veterans have had to really struggle to get basic care. Fighting overseas takes a tremendous toll, as we know, on the lives of our troops and their families.

It is unacceptable to me that those heroes have had to fight their own Government for the treatment they have been promised. So today I wanted to come out on the floor to talk to my colleagues and to talk to President Bush about the hurdles our veterans have faced. As we approach this Veterans Day, I hope all of us, especially the President, will reaffirm our commitment to our veterans by providing the money, the attention, and the leadership they deserve.

I know from personal experience how military service affects veterans and their families and how the wounds veterans suffer from their military service will shape their lives forever.

When I was a student in college at Washington State University, I was there during the Vietnam War, and I chose to do my internship at the Seattle VA. I was 19 years old when I headed off to the Seattle VA, a time when men and women who were my own age were coming home wounded from Vietnam. Every day I got on the elevator at the VA Hospital and rode up to the seventh floor and walked into the psychiatric ward, where those big, heavy doors shut behind me. Day after day, during my entire internship, I sat and watched these young men and women, who were my age, as some of them just stared blankly, some of them

screamed in anger, many of them felt cut off from their own country, and most of them felt their lives had changed forever. As a volunteer at the VA during that time, I learned how some of these veterans can easily slip through the cracks.

That experience also taught me that the doctors and the nurses who are there at the VA are really dedicated to trying to take care of these young men and women. It convinced me that the VA system is where our veterans can get the best care. Our VA system is uniquely positioned in this country to recognize and treat those specialized injuries, those medical conditions, and those mental health challenges which are caused by combat and military missions. Private medicine doesn't always have the knowledge base or the resources to deal with the unique challenges of a war. That is one reason I will continue to fight for better access to the VA, access that allows our veterans to get the care they need without the endless waits and redtape. Rather than kicking our veterans into yet another maze of processing and another maze of paperwork, we ought to be working every single day until we get it right, to provide better access to one of the best health care systems in the country to those men and women who have answered the call.

I know from my own experience in my own family veterans are sometimes reluctant to seek attention or care they need. My own father was a veteran of World War II. He was one of the first soldiers into Okinawa. When he arrived, he was greeted with mortar. He was injured quite badly. He was put on a ship and sent to Hawaii, where he was in a hospital for weeks, recovering from those wounds. I believe he was there about 3 months. At the end of that time, he was then sent back to war.

He was a courageous young man of 19 at the time. I didn't know him, obviously. He hadn't yet married my mother. I wasn't even a thought for him. I grew up with my dad. He was a disabled veteran. He was in a wheelchair for most of my life. Yet the story I told you he never told me. How had I found out that my dad was wounded and sent to a hospital and recovered under painful circumstances and sent back to war? I found out after he died, when I found his diary. That is the typical thing I hear from veterans. They are reluctant to tell us of the heroes they are.

Those two experiences in my life, working at the VA when I was 19 and finding my dad's diary years later, help to illustrate a larger lesson that applies to many of our veterans that we need to remember in the Senate and Congress as we develop our policies, and that is often these veterans do not want to call attention to their service. Sometimes they are suffering so much they don't ask for the help they need.

That is why I am so devoted to making sure we have a VA system that is ready and able and capable of taking care of all the men and women who served our country—all of our veterans. Sadly, as we both know, we are now 5½-plus years into the war in Iraq. Today we know that the VA is struggling to provide some of the basic services for our veterans. It is surprising to me it took President Bush nearly 3 months to announce his head of the VA to lead this beleaguered system. For 3 months, our VA has been languishing without strong leadership to address the challenges they have. His lack of leadership on that critical appointment sent a signal to me, and to a lot of people, that he is not focused on that cost of war and he is not focused on our aging veterans who are now going into the system, who are facing long waiting lines and not getting appointments. It underscores to me his failure to count our veterans as a part of the cost of this war.

This week we learned the year of 2007 will go down as the deadliest year of the war in Iraq; this year, right now, the deadliest year of the war in Iraq. I know my heart and the heart of the Presiding Officer go out to the families of nearly 4,000 brave Americans who have made the ultimate sacrifice in this war and to the tens of thousands more who have returned with physical and mental illness.

The physical wounds our veterans have suffered in Iraq and Afghanistan are horrendous. I have worked, along with the Presiding Officer, as a member of the Veterans' Affairs Committee to help shine a light on the mental wounds so many of our veterans are suffering from this war. As he and I know, these injuries are very deep and very personal and they can be very devastating, both to that servicemember and to his family.

This problem is still not getting the attention it needs from this administration. We all know our troops are under tremendous strain. In the past, we were always able to give our servicemembers a break in service to allow them time off from the frontlines to recover from their physical or psychological or emotional demands. We also know some of them are now serving in their third and fourth and even fifth tours in this war in Iraq. All of that increases the likelihood they will suffer post-traumatic stress disorder or other mental health conditions when they come home. In fact, according to our VA's own numbers, fully a third of all our returning Iraq veterans suffer from a mental health condition.

That is an astounding statistic, one-third of the men and women who have gone to Iraq and Afghanistan come home with mental health conditions that need treatment and support. But I also know that statistic is probably too low. That is because many of our veterans today do not seek care, either because of the stigma of mental health problems or because they live in a community where they do not know whom to ask. Today the VA is not reaching out and trying to find these men and women, to bring them in, to give them the support and services they need. I have talked to one too many veterans myself who has told me: I didn't know that I could get care at the VA. I didn't know whom I could call.

We have a lot of work to do. Earlier this year, I went to Camp Murray and spoke with some of the National Guard members who told me they did not want to be labeled with PTSD or traumatic brain injury. They had gone to Iraq and come home and they were deathly afraid of having that label on them because they thought it would hurt their career. One soldier even told me that to be labeled with a mental trauma, ''jeopardizes his life outside the service.''

Clearly, this administration and every American needs to work to change that perception, because a soldier who is at home and doesn't seek the needed care is an explosive timebomb in his family and his community. More than that, we owe them the support and care they deserve. That is part of our job, to make sure these soldiers aren't lost when they come home.

We have a lot of work to do as well to ensure that when our servicemembers do try to get care, they do not have to struggle to navigate this horrendous system they are thrown into to get the treatment they need. So far we have not seen that happening. Last year, a VA official revealed some of the clinics in this country do not provide mental health care or substance abuse care. Or, if they do, and this was a VA official himself who said this, ''waiting lists render that care virtually inaccessible.'' In other words, that VA official was saying, because the care is not there, we are denying the servicemembers the treatment they need.

I held a hearing on the issue of mental health care in Tacoma, WA, my home State, a few months ago. Dan Purcell—he is an Iraq veteran—spoke to me and summed up the frustration I think is felt by so many of the servicemembers I have taken the time to talk to. He said to me he felt like he was being ''treated as a tool that could be casually discarded when broken or found to be no longer useful.''

Can you imagine? A young man who went to serve his country in Iraq, served all of us, fought for our safety and security—no matter how we feel about this war—felt like he was discarded when he came home. That is not how any of us want the men and women who serve this country to feel.

I think it is shameful our veterans today, across this country, are forced to fight to get the mental health care they need. A lot of them struggle to even see a doctor, and they are forced to wait months or even years to get their claims processed.

Across the country, veterans who have health problems are given different ratings and different benefits. In 2003, the administration, surprisingly,

closed the door to VA health care for new Priority 8 veterans. Some veterans tell me it feels like the VA is fighting them instead of fighting for them. That is unconscionable.

When this war ends—and we all pray it will be soon—when the news fades and the conflicts become another page in our history books, we have to be here to make sure the commitment to our veterans does not fade along with that.

I wished to come to the floor this afternoon to highlight, on Veterans Day, how important it is that we recognize the men and women who serve us; how important our job is to make sure we provide the care. But I am not here just to say what they should do. I think it is important to talk about what we should do.

I think there are three clear areas where we can do a much better job, where we can improve. First of all, I believe we can work to make sure the mental health care needs of our veterans are met. We need to work to make sure the VA does all it can to raise the awareness of post-traumatic stress disorder and combat-related stress. We have to do everything we can to make sure they hire more counselors to help treat everyone, from the 20-year-old veteran returning from Iraq to the Vietnam veteran who is still struggling with his legacy of war.

We need to make sure all the employees throughout our VA system understand PTSD, so it isn't the receptionist who answers the phone who, when a veteran says to her: I can't get to sleep at night or I am having nightmares or I can't remember where my keys are or my kids don't understand me anymore, says: Well, let me see if I can get you an appointment. We have one 3 months from now. We need everyone, including the people who answer the phone, to understand post-traumatic stress syndrome and make sure we are reaching out and finding these veterans and getting them the care they need.

Next, we need to work with the VA to clear up that horrendous backlog of complaints our veterans are facing so they can finally get timely care. I hope the President signs legislation soon to ensure the Department of Defense and the VA are working with the same disability rating system and that records are not lost between those two systems.

We have worked hard in the Senate to address that issue, since the Walter Reed scandal broke. That legislation is within the Defense authorization. I hope we can get it to the President soon, that he signs it, and that the VA and DOD finally break apart those barriers that tell them they cannot talk to each other or will not talk to each other, and they can figure out a disability system that does not put our veterans into some kind of chaos between two bureaucratic systems.

Finally, most important, we, Congress, have to provide enough money so our veterans do get the quality health care they deserve. The Senate has approved a bill that provides about $4 billion more than the President asked us for that is going to take some important steps. It is going to improve the conditions at our VA facilities around the country—such as we saw at Walter Reed. That was symbolic of what is happening in our country, and we have to put the resources into these VA facilities so our veterans do not face these dilapidated conditions. We have to invest in new ways to treat military health ailments such as PTSD and traumatic brain injury. We don't know the best care for our veterans yet. We don't know all the outcomes of PTSD and all the treatments available, and our VA has to have the dollars to do that research so we can provide the best care possible.

That bill provides funding for better prosthetics for thousands of troops who have lost limbs in battle. I know the Presiding Officer and I have both talked with veterans and I have to tell you, the veterans coming home today who lose a limb in this war, they want to be able to climb Mount Rainier. They want to be able to run in a marathon. They want to be able to get up and be part of our society, our communities, and their families. We owe that to them, and better research on prosthetics and the capability of providing that to them is incredibly important. We provide for the research and the dollars in this bill to do that.

It is so frustrating to me that this administration has ignored these problems for so long. We, in the Democratic-controlled Congress, came in this year and we have taken action so now I hope the President supports this critical bill and proves his commitment to veterans as well.

The men and women in uniform have answered the President's call to serve in Iraq and Afghanistan without hesitation or complaint. They have left their loved ones for years. They have put their own lives on the line. Some have come home without limbs; others have returned with mental scars. Some, thankfully, have escaped without any injury. But everyone, to a person, has earned the respect and the best care possible when they come home. If we do not care for our servicemembers now, we will be weakening our military for decades to come.

President Bush has been more than willing to use our veterans as props when he argues in favor of this misguided war. I think it is time to turn that lipservice into reality and give our veterans the care they need and they deserve. We owe it to our country to ensure we are there to support our servicemembers, to support our veterans, and to support their families every single step of the way. Mr. President, I know, as you do, that this country is willing to do that, unlike in some of our previous conflicts.

I did not support the war, but I support the men and women who serve in it, and I will work every day to make sure we do our job to care for them when they come home, and I know all Americans feel the way I do. The men and women who serve us are part of the cost of war, and may we never forget 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.

The PRESIDING OFFICER (Mr. WHITEHOUSE). The Senator from Missouri.

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

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

Mr. BOND. Mr. President, I thought I would talk about agriculture and the farm bill today. I have a number of amendments I would like to offer. For example, I have one that we hope will spur the planting of cellulosic feedstock on CRP land, which I think is necessary if we are going to go to cellulosic ethanol, growing switchgrass on CRP land, maintaining the Conservation Reserve Program requirements, and providing a reduced payment, CRP payment, in exchange for allowing that switchgrass to be harvested for cellulosic ethanol. That is just one of the steps we need to take in renewable fuels.

Today, I have filed an amendment at the desk called the Farm Red Tape Reduction Act. I think it is very important to give farmers a voice in Federal rulemakings whenever a Federal regulation threatens to impose severe economic pain on farmers. As we saw with small business, many times the Government overlooks the plight of the little guy who does not have the resources or know-how to weigh in with big Government agencies in Washington.

In 1976, Congress created the Office of Advocacy to ensure that small businesses have an advocate in Government and a seat at the table when new regulations affecting them are drafted. I wish to share that same success with farmers. We also did something along the same lines in the Small Business Committee about 10 years ago. We introduced—I introduced and we passed something called the Small Business Regulatory Enforcement Fairness Act, or SBREFA. That has allowed small businesses and small business advocates to have a say in regulations affecting them.

I believe we need to do the same thing for farmers. This amendment would help provide a more transparent Government, ensure that the Government listens to the people most affected by the regulations, and it would hold the Government accountable for its action. It is a message I think we all want to take to our constituents; that is, the Federal Government is meant to serve its citizens, not bully them. We want to make it an easy

process. Citizens should be heard while Government is deciding on a regulation that affects them, not after the decision is made.

The difference is subtle but important: Listen to farmers and agriculture first, to be inclusive. Cutting unnecessary redtape will provide greater flexibility for agricultural businesses by removing barriers to enterprise. Encouraging enterprise is essential if the United States is to compete in a global environment. Farms and other agricultural businesses will benefit from simplified rules. This measure will help in cutting redtape with a view to improving the environment for agriculture and business.

My experience on the Small Business Committee tells me there are currently dozens of regulatory proposals before Federal agencies but most without a true assessment of the impact on the very people they will affect. What are the initiatives necessary? Are they all essential? What are the consequences? I want the agencies to look into that question.

It is not my intention to throw out regulations simply as a matter of principle if, for example, they involve costs for agriculture. I am more concerned with obtaining solid impact analysis that can serve as a basis for informed decisionmaking. It is also quite clear that better regulations will be possible only if those affected also play their part since they will be responsible for implementation.

I ask my colleagues to support this amendment.

CARBON CAP

Speaking of burdens, Mr. President, this morning the Environment Committee conducted a hearing on the proposed Lieberman-Warner carbon cap legislation. I addressed then how I think this proposed legislation will hurt farmers in the farm economy.

As part of the farm bill discussion, I want people who are focusing on agriculture and the impact on farmers to know what could be happening to them if we were to pass the Lieberman-Warner bill. Now, I have great respect for both of these gentlemen. I also am concerned about reducing emissions, but I believe this legislation will be very expensive for them. It will make it much more expensive for all of us cooling our homes in the summer, heating them in the winter. It will make more expensive the electricity we need to light our homes. It will make more expensive the gasoline we need to power our cars and trucks.

An economist at that hearing today gave testimony that the Lieberman-Warner bill would cost American families and workers at least $4 trillion—that is trillion with a ''t''—$4 trillion over the life of the bill. She expects a net loss of some 1.2 million jobs by 2015, and annual losses of U.S. production will top $160 billion in 2015, rising to at least $800 billion to $1 trillion in production lost per year in the outyears.

The bill's sponsors have tried to say that farmers will be spared some of the pain by goodies they put in the bill, but no farmer should fail to understand that the farm costs of this bill far outweigh its benefit.

Already record-high prices farmers now face will go even higher under Lieberman-Warner. For years, ammonia fertilizer cost farmers $250 dollars a ton. No one thought it would break through $400, and now we have seen $500 per ton. Even corn at $6 a bushel cannot support where fertilizer prices are heading. As one who buys a small amount of fertilizer, 13–13–13 fertilizer, I have seen the cost of fertilizer go up because nitrogen very often comes from natural gas. Well, Lieberman-Warner would make expensive fertilizers' main ingredients much more expensive.

Now, electric utilities competing for natural gas to meet their own cap requirements can pay higher natural gas prices and then just pass them on to all of us as consumers of natural gas. But farmers will have to look to Middle East countries to import their fertilizer. That would make farmers dependent on Persian Gulf imports. Farmers will also face higher fuel costs to run their trucks and tractors, higher drying costs, and higher transportation costs to get their products to market.

The Lieberman-Warner ag offset program could decimate small farm communities. Electric utilities that lack the technologies to cut emissions to levels demanded by the bill will have to take full advantage of the bill's so-called offset provisions. They will have billions of dollars to spend to retire cropland for its sequestration benefits. Those of us from farm country know the existing Conservation Reserve Program authorized through the farm bill has already taken more than 30 million acres out of production. The CRP is a conservation success. I support it. But that program has limits that prevent harm to local economies such as capping participation at 25 percent in any given county.

Nevertheless, we would be potentially taking even far more land out of production, land we need to ensure that our abundant food supply for people at home and export markets is met by farmers. Areas which exceed the level of 25 percent, especially in States to the west, show what happened to small communities. The resulting economic damage drove merchants out of business, people out of the communities. In the past, excessive CRP enrollment has led to a disinvestment in infrastructure and rail line abandonment which, in turn, triggered higher transportation costs for remaining farmers.

Of course, our Environment and Public Works Committee has not considered these farm problems. That is no surprise since we on the Environment and Public Works Committee don't deal with farmers, and some have even less farm expertise.

I share with my colleagues who are concerned about agriculture and the impact this could have on farmers what they need to know about this bill that will cut carbon emissions. We need to cut carbon emissions without cutting family budgets or imposing a devastating impact on certain sectors of our economy. I am one who supports a broad list of measures to result in lower carbon emissions. An overwhelming majority of this body would. We have on the shelf, ready to go, carbon-cutting initiatives such as aggressive but achievable new CAFE vehicle standards to raise the mileage of automobiles and trucks. We have clean portfolio strategies to require a certain portion of power from renewable and clean sources such as wind, solar, nuclear, hydro, even tidal power. Help for zero carbon emissions nuclear power has been advanced in measures passed by this body. We need to do even more. We need to make sure we have the workers available to install those plants.

We need more low carbon emission biofuels. That is why I propose making switchgrass planting on CRP land permissible. We need to do more on clean energy technologies, such as clean coal, that can capture and sequester forever the emissions from our Nation's abundant fuel source. We have 250 years of energy in the coal under our ground. We need to move more quickly to convert that coal to liquid coal, to gas, which will be cleaner burning and will allow us to sequester carbon emissions generally.

I urge my colleagues to consider that we have legitimate carbon-cutting strategies. I urge my colleagues in the name of agriculture, as well as vulnerable families and workers, to reject strategies such as Draconian carbon caps which have not worked in Europe and which will not work here and will result in great economic displacement and hardship.

I thank the Chair. I hope we will be able to introduce some of these very good amendments we have on the farm bill.

Mr. KOHL. Mr. President, I rise to discuss an amendment that will help rural communities across the country develop affordable housing. This amendment will authorize appropriations for the Housing Assistance Council, HAC, which has been committed to developing affordable housing in rural communities for over 35 years.

The amendment provides $10 million for HAC in fiscal year 2008 and then $15 million in fiscal year 2009 to 2012. In the past, the council has received appropriations from the Self Help and Assisted Homeownership Opportunity Program. The funding has helped HAC provide loans to 1,875 organizations across the country, raise and distribute over $5 million in capacity building grants, and hold regional training workshops. These critical services help local organizations, rural communities, and cities develop safe and affordable housing.

Throughout the country, approximately one-fifth of the Nation's population lives in rural communities. About 7.5 million of the rural population is living in poverty, and 2.5 million of them are children. Nearly 3.6 million rural households pay more than 30 percent of their income in housing costs. While housing costs are generally lower in rural counties, wages are dramatically outpaced by the cost of housing. Additionally, the housing conditions are often substandard, and there are many families doubled up due to lack of housing. Rural areas lack both affordable rental units and home ownership opportunities needed to serve the population.

In Wisconsin, HAC has provided close to $5.2 million in grants and loans to 17 nonprofit housing organizations and helped develop 820 units of housing. Specifically, since 1972 the Southeastern Wisconsin Housing Corporation has partnered with the Housing Assistance Council to develop 268 units of self-help housing. The presence of the council in Wisconsin has made a huge impact on rural housing development in Wisconsin and other rural communities across the country.

I hope that my colleagues see the importance of this amendment and include it in H.R. 2419.

I yield the floor.

The PRESIDING OFFICER. The majority leader.

Mr. REID. Mr. President, I am disappointed that we haven't been able to accomplish more on the farm bill. We have asked for amendments Senators want to offer. There have been a number filed. I have asked that Republicans come up with a list of amendments they would like to have considered. It appears there is no effort made to work out arrangements on the farm bill passing. I state for the record that every farm bill we have handled in recent decades has never had nonrelevant amendments. They have all been relevant, with one exception.

In 2002, the last one we did, we had one nonrelevant amendment. It was a sense-of-the-Senate resolution on the estate tax. That is it. So I don't know, maybe the Republicans don't want a farm bill. Maybe they have all cowered as a result of the President saying he was going to veto it.

As you know, the President has developed a new word in his vocabulary, and that is ''veto.'' For 7 years he was not able to mouth that word, but in the last few months, the last year of his Presidency, he has decided to do that. Maybe the Republicans don't want a farm bill. Maybe they want to join with the President and not have a farm bill. That certainly appears to be the case.

We have basically wasted the whole week with my friends on the other side of the aisle pouting about procedure. The procedure on this bill is no different than any other farm bill we have done in recent decades.

The State of Nevada would benefit a little bit from the farm bill but not much. I hope those constituencies who want a farm bill will start contacting Senators because the time is fast passing.

DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, 2008—CONFERENCE REPORT

Mr. REID. Mr. President, I ask unanimous consent that the Senate now proceed to the conference report on H.R. 3222, the Defense appropriations conference report. I would note that this matter will be managed by Senators Inouye and Stevens.

The PRESIDING OFFICER. Without objection, it is so ordered. The report will be stated by title.

The assistant legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 3222) making appropriations for the Department of Defense for fiscal year ending September 30, 2008, and for other purposes, having met, have agreed that the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment, and the Senate agree to the same, signed by a majority of the conferees on the part of both Houses.

(The conference report is printed in the House proceedings of the RECORD of today, November 8, 2007.)

Mr. REID. Mr. President, Senator INOUYE was called away for a meeting with another Senator. Therefore, it is my understanding the distinguished Senator from Alabama wishes to speak. Does he have any idea how long he is going to talk?

Mr. SESSIONS. Mr. President, I believe 15 minutes.

The PRESIDING OFFICER. The Senator from Alabama.

FARM BILL

Mr. SESSIONS. Mr. President, I just have a comment to add to those of Senator BOND about the danger to farmers of making mistakes on energy policy. Energy prices are rising significantly. I saw some numbers recently that indicated for an average family, where one person commuted 29 miles to work every day, $3-a-gallon gasoline could mean $60 to $80 a month more than they would pay for gasoline alone. That is after-tax money out of their pockets. That is a real cost.

We absolutely need to strengthen the energy portion of this bill. We need to do more to have a domestic supply of energy. But we also need to be sure we are not driving up the cost of energy so it falls hard on people such as farmers who utilize a lot of energy and a lot of gasoline and diesel fuel. It could be a real problem for them. I agree with Senator BOND that we need to be careful about this because we should not have as our goal driving up the cost of energy.

A lot of the policies I am hearing about are going to have little impact on the environment but a lot of impact on our wallets. My thoughts about the Ag bill are that I hope we will be able to pass a bill we can be proud of. I hope to be able to support it. That is what I am looking to do. I will offer an amendment or file it a little later—I know we are not voting on them now—to deal with assisting farmers who suffer losses from disasters in their region. It can be painful for them. I would like to share some thoughts on this.

Our current crop insurance, as valuable as it is, has not proven to provide a fully adequate financial safety net for our farmers. The current system can be too expensive and not flexible enough. Farmers come to me all the time and say: I would like to plow under this crop and replant now, but the insurance people think if I let it go to full maturity, I might make enough money off of it that I wouldn't have to claim any insurance. So you have to wait on the insurance people before making a decision. They come out there. They have to make judgments. This is a burden. It can eliminate quick decisionmaking and can be costly.

According to the Congressional Research Service, the Government-subsidized Crop Insurance Program has expanded significantly over the last 25 years, and that is what we wanted to happen. We wanted more farmers to take out crop insurance. But yet CRS has found that despite this expansion, the ''anticipated goal of crop insurance replacing disaster payments has not been achieved.'' Indeed, CRS reports that since 2000, ''the federal subsidy to the Crop Insurance Program has averaged about $3.25 billion per year, up from an annual average of $1.1 billion in the 1990s and about $500 million in the 1980s.

During this same time, from 1999 to 2006, CRS reports that the average per year ad hoc periodic disaster payment to fund persons who need payments in addition to the crop insurance has totaled $1.3 billion a year. Since 2002, CRS reports that the cost to the Federal Government of Crop Insurance Programs combined with ad hoc supplemental disaster payments has averaged $4.5 billion per year.

According to the Risk Management Agency, a group that supervises crop insurance, the average subsidy rate for this year—that is the average subsidy rate, the amount of money the taxpayers provide to subsidize a farmer's crop insurance—amounted to 58 percent of a producer's total crop insurance premium. The average amount of the Government subsidy is $3,359. I am convinced for some farmers—I don't know how many—more flexibility could result in more benefits for those farmers. That is, of course, what we are about, trying to make sure we get the maximum possible disaster risk protection we can for our farmers.

Farmers do have a real need for a viable risk management strategy. Certainly, farmers need some form of protection when disasters strike. But these numbers do demonstrate the traditional crop insurance coverage on a

commodity-by-commodity basis alone often does not provide the kind of adequate risk protection every farmer needs.

In 1999, a committee formed by the Alabama Farmers Federation, our largest farm group affiliated with the Farm Bureau and tasked with developing ways to improve traditional crop insurance, proposed a solution to many of the problems farmers experienced with crop insurance. This is not an idea I came up with; it was an idea the farmers themselves came up with.

Ricky Wiggins from South Alabama has farmed all his life and was one of the people who really captured this idea and has pushed it. So this committee recommended that the farmers be given a choice between traditional crop insurance and opening a new account in which they could deposit some of their own money and then receive a modest contribution from the Government. Money that would normally have gone to subsidize insurance would go into this farm security account.

My amendment would simply direct that the Secretary of Agriculture implement a pilot program creating these accounts. My pilot program would be limited to 1 percent of eligible farmers or approximately 20,000.

These farm savings accounts would allow the farmers to create a whole-farm risk management plan based on the income of the entire farm. Because you have a lot of complications now. If one crop succeeds, and another one fails, or two of them are weak and two of them are the kind of crops for which there is no insurance available at all, then things do not work out fairly for the farmer. Farm savings accounts would serve as a possible alternative or supplement in these instances to traditional crop insurance.

Under this proposal, participating producers would deposit money, previously utilized to buy crop insurance—money they would normally be paying to a crop insurance company—into a farm savings account, a tax-deferred, interest-bearing account. The Department of Agriculture would then contribute to the account rather than subsidizing a portion of the producer's crop insurance premium, which is, on average, 58 percent. The producer would put the government contribution into the same account, subsidizing the account in that fashion. Then there would be no further liability on the Department of Agriculture after this point. The farmer, the producer would be self-insured and would not be calling on the Government for additional disaster relief.

Under farm savings accounts, a minimum contribution by the producer of at least 2 percent of their 3-year average gross income would be required annually, up to a maximum amount of 150 percent. Interest and income to the account would not be taxed as earned income, but withdrawals would be treated as regular income. Account funds would be invested in low-risk guaranteed securities such as CDs or Government securities.

Withdrawals from farm savings accounts would be allowed if gross income in any given year falls below 80 percent of the farmer's 3-year average gross income. The amount of the withdrawal would be restricted to the difference between 80 percent of the 3-year average and the actual gross income of that year.

For example, if a producer, who typically earns $100,000 a year, makes $70,000, then they would be allowed to withdraw $10,000 from their farm savings account, their emergency insurance account, to bring their annual income up to $80,000. However, if the producer made $90,000 that year, a withdrawal would not be allowed at all.

Catastrophic coverage would still be required to participate in this pilot program, because if you have a total loss, then an individual savings account would not be enough to cover it.

The producer would be eligible to purchase any additional crop insurance, but it would be completely unsubsidized. In addition, farm savings accounts could be used as collateral in obtaining loans connected with the farming operation. These accounts would be closed if the producer ceased farming for nonfarm employment, retirement or bankruptcy. The remaining balance would be taxed as regular income.

The USDA has reported that farm savings accounts may overcome some of the disadvantages of current crop insurance programs. These accounts would encourage farmers to manage risks unique to their operation by saving money in high-income years and using it during years in which income is low.

While coverage would depend on the reserves in individual accounts, these accounts would be applied to a variety of farming situations. In addition, the USDA has found these accounts could encourage greater participation in the agriculture safety net by farmers than is currently experienced. Some producers are not even offered the opportunity to purchase insurance for their crops—because of the nature of their crops and the nature of crop insurance, they cannot get insurance—making them more dependent on the ad hoc disaster payments we wrestle with on the floor of the Senate.

For example, CRS reports that specialty crop and livestock producers are not afforded the same level of protection for their commodities as the major commodities.

Recently, my amendment has been mischaracterized as undermining the level of risk protection provided for farmers. Yet simply taking Government funding previously used as a subsidy for insurance premiums and, instead, using it as an incentive to encourage savings for disasters is not undermining the level of risk protection for the farmers. This is an important distinction. Giving farmers a choice between traditional crop insurance and a new program based on producers saving their own money in a tax-deferred, interest-bearing account actually increases, I submit, the level of risk protection for farmers, particularly since we would require catastrophic coverage to participate in the Farm Savings Account pilot program.

Allowing for more approaches to risk management actually gives farmers the opportunity to choose the plan they consider to be better suited for their particular operation. By providing a choice between different risk management strategies, our Government can offer more protection to a greater number of farmers at less of a cost by decreasing the need for these ad hoc disaster payments we so often do.

Purchasing crop insurance coverage commodity by commodity, as we do now, may make sense if you grow one or two crops on your farm, but traditional crop insurance may not be the best option if you grow four, five or six commodities in your area of the country.

Instead of countless premium payments that are paid by producers each year but not necessarily used, the participating producer can save that hard-earned money himself and receive a modest Government contribution to assist in providing his own risk protection.

Farm savings accounts can also provide producers much needed flexibility in managing their operation by overcoming some of the constraints of traditional crop insurance. Under the current system, producers who want to make decisions on how to manage their farm operation when a disaster strikes are often forced to jump through numerous bureaucratic hoops before they are allowed to execute their own decision on their own farm about how they want to manage the crops that are being damaged by a disaster—a drought or flood or freeze.

For example, under the current system, producers who want to cut their corn for silage to feed their cattle in a drought year—because they realize the corn crop is not going to be sufficient to actually harvest in the fall—must first get permission from the crop insurance companies and the Federal Government. So you have to have people come out and inspect the farm and argue over whether you should be able to cut the corn prematurely or let it stay in the field in the hope that there will be more rain and maybe a worthwhile crop at the end.

Why not give that decisionmaking authority to the farmer? It would save a lot of overhead, I submit. And there is, as we know, some sizable amount of fraud in the crop insurance program. Farm Savings Accounts would greatly eliminate the risk of fraudulent behavior by those participating in the pilot program.

Farm Savings Accounts will allow the producers to make their own

choices on how to manage their farm operations. If their income drops, they will be able to draw into that account to bring it up to 80 percent of their 3-year average income. I think it has great potential.

Simply put, this plan would offer an alternative to some producers who might choose it, and it could encourage broader participation in risk management plans than we have today because a lot of farmers do not participate in any insurance or risk management plans. In combination with traditional crop insurance, farm savings accounts, I believe, will save the taxpayers money by reducing the need for continual bailouts in the form of ad hoc payments and will give farmers more flexibility. If things go well, the farmer may, indeed, create a savings account that can help take care of them in their retirement years.

I ask my colleagues to consider this pilot project amendment. It in no way represents a major shift in what we are doing now. It represents a pilot project for 1 percent of farmers. The regulations would be set forth by the Department of Agriculture. At the conclusion of the program several years from now, perhaps we will see it was not a very good program. But perhaps we will find it has great potential—and the farmers who are using it like it—and perhaps more farmers might like to participate. We should consider that in the years to come.

I thank the Presiding Officer and yield the floor.

The PRESIDING OFFICER. The Senator from West Virginia.

VETERANS DAY

Mr. BYRD. Mr. President, this Sunday, November 11, will be Veterans Day. On this Sunday, our Nation will honor all veterans of all wars. It will be a day, this Sunday, to thank every man and every woman who wears or who has ever worn the uniform of one of the U.S. Armed Forces.

It will be a day to remember and to honor the dedication, the professionalism, and the courage of every individual who has been prepared to defend our people, our Nation, and our Constitution by taking up arms against our enemies.

On the 11th hour of the 11th day of the 11th month, 89 years ago, in the dark year of war that was 1918, the armistice began. Tired troops laid down their weapons against muddy trench walls, weary gunners lowered their sights, the thundering cannons fell silent, and the fragile calm of peace was broken only by the crisis of celebration and the prayers of Thanksgiving. The United States had taken part in the largest war that history had ever witnessed, and it was finally over.

The carnage of World War I was of a scope and scale that shattered the soul. Battles took place across the globe and on the seas. It was the first war to take to the skies, the first war to see chemical weapons used on a large scale, the first war to see tanks and other heavy armored weapons employed. Pandemics of influenza had swept the globe on the winds of war, extending the suffering to new areas and into civilian arenas, taking my mother to her grave.

World War I caused the disintegration of four vast empires: the Austro-Hungarian Empire, the German Empire, the Ottoman Empire, and the Russian Empire. In just over 4 short years, more than 20 million people were killed and more than 20 million people were casualties of that war. It was truly the cataclysmic end of the existing world order. But November 11, then called Armistice Day, became forever a day to be grateful for peace, thankful for democracy, and thankful for the men and the women who had done so much to preserve both.

People called World War I the Great War. They called it the War to End All Wars. Many people believed that no war could have been worse. But, alas, World War I was neither the greatest war in terms of size and complexity, nor was it the war to end all wars. Since World War I, the United States has taken part in World War II, the Korean war, the Vietnam conflict, the first Persian Gulf conflict, and now the second Persian Gulf conflict in Iraq and Afghanistan. U.S. troops have also come under fire in Bosnia, Kosovo, and Somalia. Millions more American men and women in uniform have joined with their battle-hardened brethren from World War I to share in the honored title of ''veteran.'' In 1947, the November 11 Armistice Day celebrations were renamed ''Veterans Day'' to honor all veterans of all wars.

This Veterans Day, with the Nation's men and women in uniform again in harm's way, the Nation will again mark with a moment of silence the 11th hour of the 11th day of the 11th month. In that silence, during that peaceful moment, we shall send our love, our prayers, and our thoughts to the men and the women who will know no peace in the dust and heat of battle. We will send wishes of strength, of courage, and of luck. We will send our love, we will send our prayers, and we will send our thoughts to their families as well, and we will wish for them the strength to endure the long separation and the strain of worrying about their soldier. In that peaceful moment, we shall give thanks to all who serve and all who have served.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Hawaii is recognized.

Mr. INOUYE. Mr. President, as a veteran of World War II, I know I speak for other veterans in thanking my colleague, the senior Senator from West Virginia, for his most profound remarks, and I thank him for his words.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. INOUYE. Mr. President, I rise today to discuss the conference report on H.R. 3222, an act making appropriations for the Department of Defense for fiscal year 2008. The conference report approves funding of $459.3 billion in new discretionary budget authority which is equal to the subcommittee's 302b allocation. This amount is $3.5 billion less than the funding requested by the administration, not including supplemental spending for the cost of war. And, it is the same level as recommended by the House. The conference recommendations represent a good faith compromise between the House and the Senate.

I say to my colleagues this is a good bill, one that is critical for our Nation's defense. The bill fully funds a 3.5 percent military pay raise, a half percent more than requested. It recommends adding $918 million for the Defense Health Program to ensure that the health of our military families is protected. This includes $379 million more than requested to support our military hospitals which suffer from significant shortfalls and are stressed by our wounded heroes returning from war.

The conference report includes $980 million to purchase equipment for our National Guard and Reserves recognizing the serious shortfalls that exist in our reserve components. It provides robust funding for the Army's highest priority, the Future Combat System. It supports the purchase of 20 F-22s and 12 joint strike fighters as requested.

The bill includes $588 million to support a multiyear purchase of the *Virginia* Class submarine, and provides advance procurement for four more ships than requested by the administration.

On the subject of earmarks, this measure includes nearly $3.4 billion less for earmarks than provided in fiscal year 2006. While many of the items that we call earmarks may not meet the strict definition under the new rules, we have included them in a list in the back of the Statement of the Managers along with the names of the Members of the Congress who requested them in the interest of providing greater transparency.

Today is November 8. Our Defense Department is operating on scaled back funding under a short-term continuing resolution. Each day that the Defense Department operates under a CR adds to cost and inefficiency. It is critical that we expedite the consideration of this measure to allow for better financial management, and more importantly, to ensure that our men and women in uniform and their families have the funding they need for their pay, their hospitals, their housing, and their schools. We can best show our support to the military by completing action on this bill as quickly as possible and sending it to the President. Our men and women in uniform deserve no less.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. REID. Mr. President, the distinguished Senator from Hawaii has managed this bill for many years. He has done an outstanding job. It is an honor and a pleasure to work with the Senator from Hawaii. It doesn't hurt once in a while to remind each of us what a great man he is. I am sure I will embarrass him, and I do this rarely, but for those of us who have the opportunity to serve in the Senate, one of the highlights in all our lives is having the ability to tell our children and our families that we served with DAN INOUYE. Here is a man who is a Medal of Honor winner for gallantry during World War II.

This week, the President of France bestowed the highest civilian honor they can bestow on any non-Frenchman—and that is the Legion of Honor—to Senator INOUYE. So not only is he a great manager of this piece of legislation before the Senate now, he is a great American. That is an understatement.

I hope we can do this bill as quickly as possible, and 6 o'clock is coming soon. This piece of legislation has attached to it the continuing resolution, as was done last year when we were not in charge but the Republicans were in charge. That is not saying the Republicans did anything wrong. We have a situation where we have to fund the Government, and funding runs out next Friday, a week from tomorrow. So this would fund the Government until the middle of next month. Attached to the continuing resolution—we want all the transparency we can have and should have. A number of items are extremely important. FEMA has run out of money all over the country because all these emergencies have occurred. There is money for wildfires, and it is pretty clear what that is about. There is $1.9 billion in the bill for veterans. This is what the President requested. It is not as much as we wanted. He requested that. We put his money in the continuing resolution. There is $3 billion that was requested by the Senators from Louisiana, which is something that is an emergency. The people of Louisiana have suffered a great deal, as have other States in the gulf. This allows people to come back to their homes. If this money is not obtained by the first of the year, then all applications will have to be stopped. So it is important to do this. I hope we can complete this as quickly as possible.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. REID. Mr. President, the Senator from Minnesota wishes to speak for 10 minutes as in morning business. I ask unanimous consent that he be allowed to do that and, when he completes his statement, that I be recognized.

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

The Senator from Minnesota is recognized.

(The remarks of Mr. COLEMAN pertaining to the submission of S. Res. 371 are located in today's RECORD under ''Submissions of Concurrent and Senate Resolutions.'')

Mr. COLEMAN. I yield the floor.

The PRESIDING OFFICER. The majority leader.

Mr. REID. Mr. President, one point I failed to mention in talking about this bill which has been brought to the floor in the form of a conference report is the House of Representatives acted on this conference earlier today. The vote in the House of Representatives was 400 to 15—400 to 15—and here we are in the Senate playing around with this bill today, a bill that gives $470 billion to our fighting men and women around the country for the next year, and it funds our Government until the middle of December, and we are having some kind of a procedural meltdown in the Senate.

Does this mean the House of Representatives, with their overwhelming vote of 400 to 15, didn't know what they were doing? The House is evenly divided, just as we are, with Democrats and Republicans. The difference is fairly minimal. But Democrats and Republicans, by an overwhelming margin, voted for this conference report. Why? Because it is the right thing to do.

If we don't adopt this conference report today, here are the procedures, everybody. Listen to what we face. We don't have to take it up. We can just drop it. We don't have to have a vote on it today. The word is out that there are individuals who want to take the CR out of this conference report. So they do that, and we decide to move forward on the legislation. Then what would happen is we could pass the conference report, as amended, take the CR out of it. It will go back to the House of Representatives. The House of Representatives could sit on it for the next 6 months or they could pass it during their session tomorrow.

Why do we need to do that? We have to fund the Government. We are not going to shut down the Government. There may only be 51 one of us, but we will always vote to keep the Government open. The Republicans tried shutting down the Government 10, 12 years ago, and it didn't work. We are not going to do that. We just thought it was appropriate—and I don't know who could object. The Democrats didn't do it in the House of Representatives; the Democrats and Republicans in the House of Representatives decided FEMA, the Federal Emergency Management Agency needed money. Why do they need money? There have been emergencies all over the country, and they don't have the money to take care of what is needed. They are out of money.

Have we had wildfires? We have had wildfires. They swept the West. Maybe they were on television a lot, as they were when the wildfires swept southern California, but they have been burning for months, and we are out of money. The Federal Government has obligations. The President has declared a number of emergencies because of these fires. That takes taxpayers' money. So we put that in the bill.

The House also decided in their wisdom, which I support, to take money from what the President asked for veterans—$1.9 billion—and put it on the CR so he could get that money as early as tomorrow. And we put, as I have already indicated, $3 billion in for Katrina, which is humanitarian money. It is absolutely necessary. It is for people's homes.

The House passed this outrageous legislation—I guess that is what people think. We have had this bill since about 2:30 this afternoon. It is now approaching 6 o'clock, and people are trying to decide what they want to do with it when it passed the House of Representatives 400 to 15. I am really at a loss as to what the problem is.

We have done nothing on the farm bill, not because we don't want to do something on the farm bill but because we have treated the farm bill the way every farm bill has been treated for the last three decades.

We say we want to vote on the Dorgan-Grassley amendment. No, you can't do that. We are willing to set that aside and do the amendment we know has to be done; that is, the substitute by Senators LAUTENBERG and LUGAR. No, you can't do that. We say: Why don't you give us a list of amendments you might be interested in doing? No, we can't do that.

It appears to me the minority doesn't want a farm bill. Maybe they want to wait until the new year and extend the present farm bill. I personally think the farm bill is something we should do. It has a lot of very good provisions in it, not as far as some people wanted, not as far as I wanted, but it is a good bill, and we should pass it.

I simply was told by my counterparts: We don't like the bill; you are wasting your time; forget about it. Now we hear all these words: We don't like the way you are handling the procedure. Why? Because it isn't right the way you do it, even though it has been done this way for many years.

Mr. President, 400 to 15, and we are spending hours and hours trying to decide what to do. In the meantime, there is other work of the Senate not being done. I can sit in a quorum just as everyone else and waste everyone's time, but I think we should get about the business of this country. It shouldn't be that hard to decide what they want to do. Do they want to override what the House did by a vote of 400 to 15—''they'' being the Republicans in the Senate. If they want to raise a point of order to take something out of the bill and sustained by the Parliamentarian, we can vote on that. We

can waive it with 60 votes. I just think we should have a decision made by our friends on the other side of the aisle.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. BYRD. Mr. President, every day that the Defense appropriations conference report is delayed, it delays a $40 billion increase for the Department of Defense, delays $11.6 billion for mine-resistant vehicles for our troops in Iraq and a $2.9 billion increase for our veterans.

The Defense appropriations conference report passed the House of Representatives 400 to 15. I urge all Senators to support the conference report and send the measure to the President of the United States today.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Mr. President, I ask that my colleagues take note of the fact that the Defense appropriations legislation which is before us is critically important for our Nation and for close to 200,000 American servicemembers fighting wars in two foreign countries.

This bill includes salaries for our soldiers, a well-deserved pay raise for them. I am sure that is one of the reasons it received such an overwhelming vote in the House of Representatives. Mr. President, 400 Members came forward to vote for this bill. It is an indication of bipartisan support for our soldiers, our men and women in uniform.

It includes money for training, for aircraft, ships, ammunition, humvees, and, yes, for a new generation of vehicles that will save the lives of many of our soldiers. These so-called MRAPs are much more heavily armed and safer vehicles. There is no reason to delay. The Senator from West Virginia made the point that there is $11 billion in this bill to start sending those vehicles to our troops so they will be safe and come home safe.

Our men and women in uniform across the world need this bill to pass. They do their duty without any hesitation. Can we do anything less?

There is a fundamental disagreement in this country about the war in Iraq, whether our troops should continue there, as the President would have, or whether we should start bringing them home. We have had many debates on that issue in this Chamber during the last year; there will be many more. But today this bill should not be a casualty of that disagreement in the Senate. This bill is about providing the vital resources our military needs to keep our country strong and safe.

Let me tell you, there is a part of this bill I had at least a small part in crafting, and I am very proud of it. It is called the Wounded Warriors Act. There were so many involved in it. I don't claim that it was my own exclusively, but each of us tried to put a provision in that would help our warriors coming home from battle be treated better and recover from their wounds more quickly.

This bill includes $70 million to fund the Wounded Warrior initiative that was included in the Defense authorization bill. That is legislation on which I worked. Having visited veterans hospitals and talked with so many disabled vets, I realized that money was desperately needed to improve treatment for traumatic brain injury and post-traumatic stress disorder and actively support our troops in transition between Active Duty and Veterans' Administration care.

This bill also has $980 million for equipment for the National Guard. In my hometown of Springfield, IL, is Camp Abraham Lincoln. If you go out to Camp Lincoln, there is a big parking lot. It is empty. It used to be filled with vehicles until 80 percent of the National Guard units in Illinois were deployed. They took that equipment overseas to fight the war. It was destroyed, run down, not worth returning. It has never been replaced. Our National Guard units in Illinois have about a third of the equipment they need. God forbid a crisis in our State or something that requires mobilization; they will be hard pressed because the equipment is not there.

This bill has $980 million for equipment for the National Guard. Most of our Guard units are lucky to have half the equipment they once had. This is a burden on them when it comes to training and responding when needed.

I have looked at our Guard and talked with our leaders there. They have only half the authorized rifles they need and less than half the authorized vehicles. Our States, every one of them, desperately need this equipment, and this bill provides almost $1 billion to meet that need. Why would we say no? Why would we wait?

Also included in this bill is desperately needed funding for veterans, the victims of the catastrophic wildfire season, and people who lost their homes because of Katrina.

This bill contains a continuing resolution which keeps the business of Government continuing as we work our way through this appropriations debate. Maybe there are some on the other side, people I have not met, who believe closing down our Government is a good thing. We certainly don't. The Democrats in the majority believe our Government should continue to function. Was it 12, 13 years ago when then-Speaker Gingrich decided he would just close down the Government to see if we would miss it? People such as Rush Limbaugh were crowing on the radio that if the Federal Government went away, nobody would notice. They noticed it in a hurry. There are vital functions that need to continue.

This bill contains a continuing resolution that keeps the lights on, keeps people working, keeps valuable services there for people across America and around the world. We want to pass this along with this Defense appropriations bill. This would fund our Government until December 14, next month, which gives us time to work on agreements on the rest of the appropriations bills.

We are operating under the spectre of a President who has threatened to veto 10 of the 12 appropriations bills, even though we put these bills together in a very bipartisan way, and they had overwhelming majority votes. Those appropriations bills aren't likely to become law in the near future, so the only responsible thing to do is to have this continuing resolution so Government funding will continue.

The President has said he will veto these bills because they are—all the bills, the appropriations bills—roughly $20 billion over his budget. The President has threatened to delay health care, money for No Child Left Behind, training for workers, even the National Institutes of Health, and even transportation because Congress restored many cuts he has made over the years—$20 billion, $25 billion. Sure, it is a significant sum of money, but it represents about 2 percent to 2½ percent of the total Federal budget.

A President who is arguing we can't afford $20 billion or $25 billion for America has asked us for $196 billion for Iraq—$196 billion for Iraq but we can't afford $20 billion for America? I don't follow it.

A strong America begins at home, investing in our people, our children, our communities, our neighborhoods, our towns, and our States—our economy—so businesses can grow and good jobs can be there. Why this President opposes these measures I can't understand. But we shouldn't let the business of Government grind to a halt while we work out that obvious difference. That is why the continuing resolution is so important.

I guess 2007 was a banner year at the White House. After 6 years of searching, after turning loose all of the agencies of the executive branch of Government, after bringing in the best investigators the President could find, after literally tearing the White House apart from one end to another, President George W. Bush, in the year 2007, discovered his veto pen. He had been looking for 6 years. He couldn't find it. He never used it. But then he found it in 2007, and I guess he decided this would be part of his relevancy campaign.

You may recall, Mr. President, he gave a speech and said: I have to do some things around here to continue to be relevant. Reuters announced today that 24 percent of the American people approve of the President's job in office. Someone in the White House, I am not sure who, has said to him: If you just start using this veto pen again, I think your numbers will go up. I think you will be relevant.

I think they are wrong because the President has used his veto pen for things that don't help our country. When we tried to change course in policy and direction in Iraq, the President used his veto pen and stopped us. When we tried to promote stem cell research to find cures for diseases, such as diabetes and heart disease and cancer, Parkinson's and Alzheimer's, he found that veto pen and used it to stop the research. He has used that pen to stop Children's Health Insurance, and he used it to try to stop an investment in America called the Water Resources Development Act.

Today, there was a historic vote on the Senate floor. I believe some 79 Members, if I am not mistaken, voted to override the President's veto—many more than the 67 necessary. It was historic because that is only the 107th time in history this has occurred. The Senate, Republicans and Democrats, rejected the President's veto.

So the President continues to take advice and threaten to use that veto pen again. It is a newfound power that he ignored for 6 years as President. Not once did he find a single bill generated by a Republican Congress that he would veto, not one time. Now he can't find a bill generated by a Democratic Congress he wants to sign.

Well, the bills we pass in the Senate take bipartisan support. We don't have 60 votes on the Democratic side. We have 51. We need the help of our Republican friends to pass anything, and we have gotten that help. I hope the President will consider that when he threatens to veto appropriations bills with overwhelmingly positive, affirmative votes.

The continuing resolution assumes an increase of $2.9 billion for Veterans Affairs. This would allow the VA to spend at a greater rate, and they need to. If you had asked the Department of Veterans Affairs 7 or 8 years ago what they would be doing in the year 2007, I am sure they would have said: Well, we will continue to meet our legal obligation for a lot of aging veterans who have come to us with the problems of aging men and women. But that is not their challenge today exclusively. They have a new challenge, with thousands of returning soldiers and sailors, marines and airmen, who come back broken in body and spirit and need the help of the Veterans' Administration. We give them money for that. That is in this bill.

Will Republicans stop this bill? Will they stop the $2.9 billion for the Veterans' Administration? How could they possibly justify that?

It also has $500 million emergency funding for the Forest Service and Bureau of Land Management for wildfires. You don't have to tell our colleagues from California what that is about. It is about the biggest migration in our Nation since the Civil War—people forced out of their homes because of the fires, many of their homes destroyed in the process.

The bill has $3 billion in emergency funding for the HUD Road Home Program for people whose homes were damaged and destroyed by Hurricanes Katrina and Rita. The Governor of Louisiana, Governor Blanco, came to see me, along with the mayor of New Orleans, Mr. Nagin, and they told me about this program, one that the Federal Government agreed to fund. It has been a program that has been widely subscribed and needs additional money to be completed. It is just for the people who have legitimate claims, and it gives them a chance to come home. It is about time the people in New Orleans had a chance to come home.

Mr. President, our country faces threats on many fronts. Our duty in Congress is to provide the authority and the funding for our military to be equipped and trained to meet those threats. I support this funding bill which gives our soldiers the tools they need to safeguard our Nation. To my friends on the Republican side of the aisle, as they ponder whether to support this bill, I hope they will understand funding our military at this moment in our history is critical; providing continuing resources for our Government to stay in business is the right thing to do.

Saying no to veterans at this moment is a bad decision. Saying no as well to the victims of fires is not defensible. And saying no to those people who have struggled and need a helping hand across America is not consistent with who we are and what we should be.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Mr. NELSON of Florida). Without objection, it is so ordered.

The Senator from Alaska is recognized.

Mr. STEVENS. Mr. President, I want to state my support for the Department of Defense conference agreement that is before the Senate today. As we have done for so many years, my good friend from Hawaii, Senator INOUYE, and I have worked in a bipartisan manner with our counterparts in the House to draft an agreement that meets the needs of the military. This bill balances our priorities for funding, pay, and benefits to the military and civilian personnel, maintaining force readiness in the operating accounts, and providing significant investment for the modernization of weapons systems. I strongly support the defense side of this bill.

I remain deeply disturbed by what is not included in the bill. What is missing from the conference agreement is what is known as the bridge fund or supplemental appropriations to support our troops in the field. For each of the last 3 years, and in the current CR, the bridge funding for the costs of operations in Iraq, Afghanistan, and around the world have been included, until a full supplemental bill could be considered has passed the Congress in the Spring.

This has been a difficult matter for us to deal with. I was unsuccessful in the defense conference in adding $70 billion as a bridge fund. As I understand it, the House has indicated they will bring forth a stand-alone bridge fund bill to be considered by the Congress as early as next week. As a matter of fact, it may be tomorrow that they take it up. I have not seen any action yet to assure that we will get a clean bridge fund bill that can be signed by the President. This bothers me considerably.

The continuing resolution attached to this bill does not contain a bridge fund. As I said, every defense bill since fiscal year 2005 has included a bridge fund that funded contingency operations. Unfortunately, the absence of this bridge fund leaves the Department will be forced to divert money from their regular accounts to fund overseas operations. They will also be forced to reprogram money from the Defense bill itself in order to cover the problems of the men and women in the field.

I have said I would offer a motion to invoke rule XXVIII against this bill, but upon reflection and after talking to the people in the administration, the intention is to allow that this Defense bill to be passed because there are overwhelming problems in the Defense Department itself.

So contrary to my own deep thoughts about the lack of the bridge fund, I think, considering the matter of all of those people who serve us, it is essential we get the Defense bill itself passed. It will give us the basic funds to continue the ongoing operations for a limited period of time.

It bothers me that without the bridge fund—the Congress has failed to recognize the overall process of supporting our deployed forces and replacing worn equipment. These effort are at risk for being delayed, when this bridge fund is not provided. The current CR, which contains funding for our deployed forces, runs out on the 16th of this month.

I say to the Senate, it is a great risk we are taking, a great risk not to fund the people who are serving valiantly overseas. These people ought to be the first under consideration. Unfortunately, we are presented with a dichotomy of protecting the whole of the Department of Defense and getting the bill to the President to be signed, as opposed to having the additional moneys necessary to continue to support those overseas.

In the past 3 years, as I said, we have included a bridge fund. Without this funding, the Department of Defense will now have to divert money, reprogram money from this bill we are going

to pass, to fund overseas operations. Those operations cost about approximately $13 billion a month. That is money that is necessary to keep the people who are in the field now, sustain the rotation of those forces, and ensure that they have the equipment that they need. A significant portion of that money is dedicated to the troops and their families as they come home. It costs much more to bring a soldier or Marine back and put that person back into their unit and take care of all the medical problems associated with returning personnel as it does to send someone over.

The difficulty is without a bridge fund those people are going to be the first ones harmed. We still have time. This is the point just made to me—we still have time before November 16 to pass a clean bridge fund, one without bells and whistles, one without political concepts in it, one without telling the President to end a war he can't end.

I do hope the Senate understands we should not have a political dispute bar us from supporting those people who have volunteered. This is a total volunteer military. They have depended upon us to support them. We have until November 16 to do what we should do, and that is pass a bridge bill.

I do hope the House will keep its word to us and send us a bridge bill. No matter what happens between the White House and the Congress and the parties within the Congress, we should not lose sight of the fact that those people have volunteered to serve this country, they are there, some of them are coming back, and others are going over to take their place until this issue is settled. I, for one, hope it is settled as soon as possible, but I do not believe we can solve the problem by denying the Department the money it needs to support those in the field.

We have men and women in uniform in 146 countries today. It is not just Iraq and Afghanistan. These servicemembers are still chasing terrorists around the world. I think we send the wrong message to the deployed troops who have volunteered for duty if we neglect them. This will be the first time we have done that.

By not raising the point of order I am relying upon what I believe is a commitment of the House to send us a bridge bill, a bridge bill that can be passed and signed by the President by the 16th, by the time the current CR expires. I do not believe we can ignore our commitments to our forces overseas, and I do hope the Senate will join us in agreeing to pass a bridge bill that is not political.

I know my friend, and I disagreed on the basic concept of entering this war. But after the troops were there, we have set aside any political differences and decided our job was to make sure the volunteers who commit themselves, commit their lives and put them at stake, are going to get what they need so long as the Commander in Chief orders them to do what he has the power to do under the Constitution, and that is to represent this country in events taking place in Iraq, Afghanistan, and throughout the world.

These are very complicated times. We are reading what is going on in Pakistan, which impacts our operations in Afghanistan. When we were there the last time I was there, the one thing they wanted was support for helicopters and equipment to assist in the war on terrorism.

I remind my colleagues there is more than $11 billion in this package for mine resistance, ambush protected, or MRAP vehicles. Senator INOUYE and I totally support that concept. But force protection for the troops goes far beyond the vehicles in which they ride. It includes everything from body armor to helmets, to ballistic eye protection, aircraft survivability equipment, to improved sensors, communications for better situational awareness—all of that should be in the bridge fund that is not here.

I am disturbed with myself, as a matter of fact, to a certain extent, that I am not going to raise that point of order. But you have to weigh this, now, as to what is in the best interests of the people in uniform.

We are not saying today there is not going to be a bridge fund. We are saying we will pass this bill now, but we are committing ourselves—I am committing myself to do everything possible to get a bridge fund passed by November 16.

We do not want to send the wrong message to our people deployed. The interesting thing about it—I have spent the last few evenings, quite late into the morning, watching this marvelous public television series called ''The War.'' That was our war, Senator INOUYE's war, and my war. As a matter of fact, Senator INOUYE has a dramatic presentation in that series, and I applaud him for that. But the difference between that war and this war, these conflicts in which we are involved now, is overwhelming.

I remember leaving Miami and calling my aunt and uncle, with whom I lived, then when I came back from China, calling them from Hawaii, almost 2 years later. There was no communication—no phones, no e-mails, no messages. Once in a while, about twice a month maybe, a letter or a package.

This is a different concept. These people overseas can hear us now. They are going to get e-mails today saying the Senate did not pass that bridge bill. They are watching us—and they should. They have every right to watch us, and their families do too.

I think to do anything less than passing this bridge bill before we go home for Thanksgiving—to me, it would be irresponsible. We have to keep our commitment to these people. The $70 billion that is available to the Department of Defense under the current CR, it ought to remain available to them until we pass the main supplemental, which the Congress will take up sometime in March or April.

I do hope the Senate will understand what we are doing. We have a bill today, which includes the Continuing Resolution, that has a great many provisions in it that we didn't have much to do with here in the Senate. The Senate is on warning that it could well become surplusage in the processes of the Congress if we let this happen again. These items were entered into the conference report entirely separate from the defense bill that is before us tonight. Rule XXVIII is supposed to bar that. The exigencies of the situation now are such that we must let the Defense bill go to the President in order to achieve our goal of supporting the activities of the Department of Defense.

It is with reluctance I urge my colleagues to support this bill, send it to the President for his signature—which I am assured will happen. If we don't stand up as a Senate and support our troops, we will be neglecting our duty.

We have duties here too. We support the Constitution, and the Constitution gives the President of the United States power to send troops overseas whether we like it or not. As a matter of fact, we passed the resolution to make sure the President had that power and then asked him to do it.

So under these circumstances, we should not neglect those people who are overseas, who are wearing our uniform and putting their lives at risk on a daily basis. I do hope the Senate will take notice that we cannot let this become a common practice, we cannot neglect our job in terms of having the Congress consider the things we believe are absolutely necessary for our country.

The only reason I do not do it now is this gap between now and a week from now on November 16. We have the time to pass a bridge bill. We have the time to authorize the money that is needed to support these people during our absence on what we call the Thanksgiving recess. I hope and I pray to God we will do it. We must do it. It is on that basis that I do not raise a point of order.

The PRESIDING OFFICER. The Senator from Hawaii is recognized.

Mr. INOUYE. Mr. President, for the past 30 years, I have been privileged to serve on the Appropriations Defense Subcommittee with my illustrious partner, the senior Senator from Alaska. We have always done this in a bipartisan fashion. It has been so bipartisan that, notwithstanding the controversies involved in the bill, as the Senate knows very well, we passed the bill in the subcommittee in less than half an hour and the full committee in less than an hour and a half.

We should also keep in mind that 4 days from now, we will be saying thank you to the veterans of World War I, II, and the others.

This is a must bill. I think we should take the words of the senior Senator

from Alaska, his words of wisdom, with seriousness because it deserves serious consideration.

●Mr. McCAIN. Mr. President, we are a country at war and yet it is business as usual in the Halls of the Congress. This conference report is chocked full of unrequested and unauthorized funding provisions while actually underfunding the budget requested by the President for the Department of Defense by $3.5 billion. That is correct, Mr. President. We are underfunding one of the most critical agencies to the safety and security of the American public in order to spend extraordinary amounts on unnecessary, wasteful earmarks and run of the mill porkbarrel projects. There are over 2,000 earmarks in this year's Defense Appropriations conference report and its accompanying Statement of Managers, with 24 earmarks added outside the scope of conference.

Today, we are engaged in a struggle against Islamic fascism and yet it seems that many on both sides of the aisle are placing special interest and pet projects before the urgent funding needs of our troops and providing what they need to succeed in their mission. While this bill has $3 billion of Katrina relief for Louisiana homeowners, it does not have one dime allotted for bridge funds for the global war on terror. I support doing what we can do to aid in the Katrina recovery. But we must be equally committed to our brave men and women in uniform.

Allow me to highlight some of the earmarks that are taking real money away from our fighting men and women: $25,000,000 for the Hawaii Federal Health Care Network; $23,000,000 for the National Drug Intelligence Center, NDIC; $20,000,000 for historically Black colleges and universities; $5,000,000 for the United States Olympic Committee, USOC Paralympic Military Program; $4,800,000 for the Jamaica Bay Unit of Gateway National Recreation Area; $3,000,000 for ''The First Tee,'' a golf foundation in St. Augustine, FL; $2,400,000 for the Vertical Lift Center of Excellence-Institute of Maintenance, Science and Technology; $2,000,000 for brown tree snake eradication; $1,600,000 for the New York Structural Biology Center; $1,200,000 for the National Bureau for Asian Research; $800,000 for extended shelf life produce for remotely deployed forces; and $500,000 for the Maine Institute for Human Genetics.

I am not questioning the merits of some of these programs and initiatives but they do not belong on a Defense appropriations bill. It is our responsibility to be faithful stewards of the taxpayers' hard-earned dollars. Whatever position you have on the war in Iraq, the global war on terror or this administration, as long as our soldiers, sailors, airmen and marines are in harm's way, it is our responsibility to provide them with whatever is necessary for them to succeed in their missions around the world and come home safely. We can do better than this for our troops and for the American taxpayer.●

Mr. FEINGOLD. Mr. President, I oppose the 2008 Department of Defense appropriations conference report because it provides money to continue the misguided war in Iraq but fails to require the redeployment of U.S. troops. The war in Iraq is the wrong war. It is overstretching our military and undermining our national security. It is long past time for this war to end.

Some may pretend that this conference report does not include any Iraq money. That claim is misleading, at best. This bill provides the regular DOD funding that keeps the war going. In fact, this bill will pay for a significant part of our operations in Iraq. Moreover, there is nothing in this bill to prevent the Defense Department from shifting regular funds to pay for the full costs of the war in Iraq in the event that the Congress does not enact supplemental appropriations for the war.

I strongly support our brave men and women in uniform. We do not do them any favors by giving the President money to keep this open-ended war going with no strings attached. For their sake, and for the sake of our national security, we should use our power of the purse to force the President to bring this war to a close. This bill represents another missed opportunity, and another example of Congress failing to use its power to bring our troops out of Iraq.

Mr. AKAKA. Mr. President, I would like to urge my colleagues to support the conference report to accompany the fiscal year 2008 Department of Defense appropriations bill. I would also like to thank all of the House and Senate conferees for their hard work and dedication to ensure that our troops and their families have all the necessary equipment and support they need.

As both a senior member of the Armed Services Committee and chairman of the Committee on Veterans' Affairs, I am particularly pleased to support $70 million in funding for programs authorized under the Dignified Treatment of Wounded Warriors Act, designed to assist members of our Armed Forces and their families in the often difficult transition from battlefield to home. I am also glad to support the inclusion of $980 million in additional funds to ensure that National Guard and Reserve forces have the equipment they need to train for deployments abroad and to respond to natural disasters at home.

In addition, I applaud the conferees' decision to retain a provision recognizing the dedication and sacrifices made by members of our Armed Forces and their civilian counterparts, by providing a 3.5-percent increase in basic pay for all service members and civilian personnel, 0.5 percent above the President's request. Similarly, I am pleased to support the inclusion of $2.6 billion to be used for the immediate needs of our military families. These funds which will be used to hire counselors, teachers, and child care providers are critical for our military readiness and for sustaining our troops by ensuring the well-being of their families.

Once again, let me urge my colleagues to set aside differences and reach the compromises necessary to provide our brave men and women in the armed services with the resources they need.

Mr. BYRD. Mr. President, I certify that the information required by Senate rule XLIV, related to congressionally directed spending, has been identified in the conference report to accompany H.R. 3222, Department of Defense appropriations bill, 2008, House Report 110–434, filed on November 6, 2007, and that the required information has been available on a publicly accessible congressional Web site at least 48 hours before a vote on the pending conference report.

Mr. ENZI. Mr. President, I rise to express my opposition to the conference report to H.R. 3222, the Defense Appropriations Act for fiscal year 2008. This Defense bill, which I strongly support, unfortunately includes a so-called ''continuing resolution'' which is full of earmarks.

I am extremely disappointed that our troops must continue to pay the price for political posturing and the inclusion of funding for pet programs in a must-pass military funding bill. Our troops are being used to carry pork projects and this is a text book example of irresponsible legislating.

Let's be clear about what a continuing resolution is. This continuing resolution provides stopgap funding for existing Federal programs at current or reduced fiscal year levels because the majority couldn't get its appropriations bills completed by the beginning of a new fiscal year.

What we should be considering is a straight CR: no earmarks, no plus ups, no new ''emergency'' spending. This bill has it all. It has a $3 million earmark for a golf center—an expense clearly not linked to our national defense. There is even $800,000 to study the effects of sound on marine mammals.

This is a dangerous way to operate.

This Congress has already shown it has zero fiscal discipline. Business as usual is bad enough, but if we, the U.S. Senate, concede on the definition of a CR, this kind of unconscionable spending will be done forever. It will be standard operating procedure. That is not what the American people want.

I want to make very clear my strong support for the members of our Armed Forces and the vital work they are doing around the world every day. I have the greatest admiration for all of them for their commitment to preserving our freedoms and maintaining our national security. They are all true heroes and they are the ones who are doing the heavy lifting and making

great sacrifices in our country's name so that we might continue to be the land of the free and the home of the brave.

We are faced tonight with a vote on a bill that our troops need, but the troops are not the focus of this conference report. This political tactic does our troops and all Americans who want good government, a disservice.

I want to provide our troops with the funding and the resources they need to be successful in all their objectives. I want the Senate to consider the Fiscal Year 2008 Defense Appropriations Act on its merit. Legislating isn't a barter system, or at least it shouldn't be. The men and women of our armed services deserve better than having the funding they need to do their job being used in a horse-trading scheme so a Member of Congress can get funding for his or her own special cause. There is more than $50 million worth of projects being slipped in this so-called CR. We are moving quickly toward midnight. I guess that's a fitting time to vote on a bill laden with pork slipped in under the cover of darkness. The people of the United States deserve better.

Mrs. MCCASKILL. Mr. President, with great reluctance, I will vote today in opposition to passage of the 2008 Department of Defense appropriations conference bill. This legislation contains $459 billion in funding to provide the resources needed to run daily military operations.

I supported this legislation when it first came to the Senate floor in October. However, I can not vote in support for the final House-Senate conference report because it contained $59 million in earmarks that were added during the closed-door conference negotiations. One of those earmarks was for $3 million to fund a golf center that is in the name of the congressman who requested it. What is a golf center doing on a DOD appropriations bill?

This was a difficult decision because I strongly support most of the provisions in this bill, and I have deep respect for Chairman INOUYE and Ranking Member STEVENS and their efforts to craft a good funding bill.

However, I made a commitment during my campaign and when I took my oath of office in January to reform the secretive earmarking process. I thought we had made real progress with the passage and enactment of S.1, the ethics reform bill, that requires far more transparency and disclosure on earmarks than there has ever been. Unfortunately, I have since discovered there are still some gaps in the ethics bill that need to be filled.

One of which has to do with the difficulty of raising a 60-vote point of order on earmarks added during appropriations conference negotiations. S.1 says that we can do that. But in reality, we really can't. Most of these added funding earmarks are contained in the Joint Explanatory Statement of Managers, which, technically, isn't part of the conference report bill text. What that means is we can't raise a point of order against those earmarks to strike them out of the bill.

Let me give me you some perspective on what we are talking about. The Defense appropriations conference text was 133 pages long. The Joint Explanation of Managers—470 pages long. The JES as they call it, contains all of the earmarks, all kinds of substantive direction and is three times as long as the official conference report, and it is not subject to a point of order? This is wrong. It's not what I believe most of us thought would escape the oversight rules of S. 1 when we voted for it. At the very least, it seems disingenuous in how we sold this bill to the American public as a way to clean up our taxpayer-funded shop and how we do business around here.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

EXECUTIVE SESSION

NOMINATION OF MICHAEL B. MUKASEY TO BE ATTORNEY GENERAL

Mr. REID. Mr. President, I ask unanimous consent the Senate now proceed to executive session to consider Executive Calendar No. 374, the nomination of Michael Mukasey to be Attorney General of the United States; that there be a time limitation of 5 hours of debate equally divided between the chairman and ranking member of the Judiciary Committee, with the Democratic time divided as follows: Senator LEAHY, 45 minutes; Senator DORGAN, 15 minutes; Senator DURBIN, 20 minutes; Senator CARDIN, 10 minutes; Senator REED, 15 minutes; Senator KENNEDY, 10 minutes; Senator HARKIN, 10 minutes; Senator BOXER, 15 minutes; Senator SALAZAR, 10 minutes; that upon the conclusion or yielding back of the time, the leaders be recognized for 10 minutes each, with the majority leader going last; that the Senate then vote on confirmation of the nomination; the motion to reconsider be laid on the table; the President be immediately notified of the Senate's action, and the Senate then resume legislative session; that the Senate then, without intervening action or debate, vote adoption of the conference report on H.R. 3222.

The PRESIDING OFFICER. Is there objection?

Mr. LOTT. Mr. President, I wish to put in the RECORD that this has been cleared with the leader on our side also. I have no objection.

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

The majority leader.

Mr. REID. Mr. President, I appreciate the cooperation of everyone. This has been a difficult day. These are very sensitive issues we are dealing with, with the troops and the financing of the country, in addition to the nomination of a Cabinet officer. It is a time when you need cooperation from both sides. That is what we have had. It has not been easy. I extend my appreciation to my colleagues on the other side of the aisle and the cooperation of my Members. I would finally say that for those of you who have had questions asked by Democrats and Republicans, we are going to finish the farm bill. There is some real movement on that with amendments. I feel comfortable we will be able to get that done in the near future. I appreciate everyone's cooperation.

The PRESIDING OFFICER. The clerk will report the nomination.

The assistant legislative clerk read the nomination of Michael B. Mukasey, of New York, to be Attorney General.

The PRESIDING OFFICER. The assistant majority leader.

Mr. DURBIN. Mr. President, the Senate is now taking up the nomination of Judge Michael Mukasey to be the next Attorney General of the United States. It is a nomination which has become controversial. Judge Mukasey has served his country in many different ways. He served as a Federal judge before he retired, then went into private practice and was summoned to serve as Attorney General by this President. I had a chance to meet with him personally in my office. One cannot help but be impressed by the man's intelligence and erudition. He clearly is a person of strongly held beliefs and it takes little time to appreciate that when you meet him.

I left, after meeting him in my office, believing his nomination hearings would be interesting, and they were. On the first day, Judge Mukasey was a great witness, saying things that needed to be said about his plans to change the Department of Justice from the days of Alberto Gonzales, about his feeling of responsibility to the country not to abide by any decisions made by the President that were inconsistent with the law or the Constitution.

He went so far as to say he would resign before he would allow that to occur. I can recall speaking to my colleagues, including Senator SCHUMER, who sat next to me in the Judiciary Committee, and saying: What a breath of fresh air, how refreshing that he would be so candid and forthright. After all the years of Alberto Gonzales dodging questions, refusing to answer, here was a man who answered the questions. That was the first day.

Then came the second day of the hearing. When my turn came to ask questions, I proceeded to ask Judge Mukasey specific questions about torture. His answers to those questions led to a great deal of controversy and lead us to this moment in the Senate debate.

When we write the history of this early 21st century in America, there are going to be countless stories of courage and compassion: Firefighters and police officers racing into the burning Twin Towers minutes before they collapsed on 9/11.

The passengers on United Airlines flight 93 overcoming hijackers and plunging to certain death instead of allowing the terrorists to reach what many believe was their intended target, the U.S. Capitol, and those of us working in the building at the time. Those passengers on that flight were true American heroes. Those of us in the Senate and the House and all of us in the Capitol will be forever in their debt.

There were hundreds of thousands of brave service men and women, every single one of them volunteers, leaving families and friends to defend our country. Thousands of them have come home to America in flag-draped coffins. Stories of courage and stories of compassion.

Sadly, during the same period, there have been stories of cowardice and cruelty. A short way down Pennsylvania Avenue from this Capitol building is the U.S. Department of Justice. In that building, attorneys manipulated the law to justify practices which were unthinkable in America. They put our troops at risk and sacrificed principles for which America has always stood and for which thousands died on 9/11 and the years since. They did tremendous harm to the image of this great Nation. The late historian Arthur Schlesinger, Jr., said this about the Bush administration's torture policy:

> No position taken has done more damage to the American reputation in the world—ever.

Alberto Gonzales was an architect of the Bush administration's torture policy. As White House counsel, he recommended the President set aside the Geneva Conventions. The phrase ''Geneva Conventions'' brings to mind civility, fairness, and justice. How did Alberto Gonzales characterize the Geneva Conventions? He called them ''quaint'' and ''obsolete.'' He requested and approved the infamous Justice Department torture memo that limited the definition of torture to abuse that causes pain equivalent to organ failure or death.

Now we are asked to consider the nomination of Judge Michael Mukasey to succeed Alberto Gonzales. Judge Mukasey is obviously intelligent, with a distinguished record. But that is not enough. In light of Alberto Gonzales's shameful role in justifying torture, Judge Mukasey bears a special burden to make clear where he stands on the issue. I am sorry to say he has not met that burden.

Prior to his confirmation hearing when I met him in private, his responses troubled me. He told me ''there is a whole lot between pretty please and torture'' and that coercive techniques short of torture are sometimes effective. When I reminded Judge Mukasey that cruel, inhuman, and degrading treatment are illegal under U.S. law, he said he thought these terms were ''subjective'' and suggested the President might have authority as Commander in Chief to ignore the prohibition.

In light of these responses, which troubled me greatly, I decided to follow up with the questions I asked at his confirmation hearing. I asked him whether the torture technique known as waterboarding is illegal. He refused to answer, saying:

> I don't know what's involved in the technique. If waterboarding is torture, torture is not constitutional.

Frankly, I was surprised that Judge Mukasey was unfamiliar with waterboarding. This is not a new technique. It may be one of the oldest recorded forms of torture in the world.

Retired RADM John Hutson, former Navy Judge Advocate General, also testified at Judge Mukasey's hearing. He was asked about Judge Mukasey's position on waterboarding. This is what he said:

> Other than perhaps the rack and thumbscrews, waterboarding is the most iconic example of torture in history. . . . It has been repudiated for centuries. It's a little disconcerting to hear now that we're not quite sure where waterboarding fits in the scheme of things. I think we have to be very sure where it fits in the scheme of things.

To give Judge Mukasey a chance to clarify his views, I wrote him a letter, which all 10 Democrats on the Senate Judiciary Committee signed, and asked him a very straightforward question. Certainly, straightforward questions need to be fielded by lawyers, by judges, and the Attorney General.

The question was this: Is waterboarding illegal?

It took Judge Mukasey four pages, in a response to our committee, to say nothing. He refused to say whether waterboarding was illegal because ''hypotheticals are different from real life.'' He went on to say it would depend on ''the actual facts and circumstances.''

Waterboarding is not hypothetical. This old woodcut dates back to the Spanish Inquisition, 515 years ago. It shows a prisoner being subjected to waterboarding. This is no new idea. It is simulated drowning to create panic in the mind of the detainee and to force compliance.

The Spanish inquisitors referred to waterboarding as ''tormenta de toca,'' after the linen towel they placed over a victim's mouth and nose during the procedure. Waterboarding was part of an elaborate regime of torture that included the rack and dislocating limbs by means of a pulley.

Here we are 500 years later, and it is still being used today, sadly, in Burma by the military dictatorship. There are no facts and circumstances that need to be considered—it either is or it isn't torture.

Judge Mukasey would not say whether waterboarding was torture. Many others have, and they did not need four pages of legal obfuscation. I received a letter from four retired military officials about Judge Mukasey's position on waterboarding. This is what they said:

> This is a critically important issue—but it is not, and never has been, a complex issue. . . . Waterboarding detainees amounts to illegal torture in all circumstances. To suggest otherwise—or even to give credence to such a suggestion—represents both an affront to the law and to the core values of our nation.

In a recent statement on the Mukasey nomination, Republican Senators JOHN MCCAIN, JOHN WARNER, and LINDSEY GRAHAM wrote:

> Waterboarding, under any circumstances, represents a clear violation of U.S. law. . . . anyone who engages in this practice, on behalf of any U.S. government agency, puts himself at risk of criminal prosecution.

The Judge Advocates General, the highest ranking military lawyers in America—all four branches—testified unequivocally to the Senate Judiciary Committee that waterboarding is illegal and violates Common Article 3 of the Geneva Conventions. If these high-ranking military officials and our fellow colleagues in the Senate can answer this question so directly, why can't Judge Mukasey?

Let's take an example.

BG Kevin M. Sandkuhler, Staff Judge Advocate to the Commandant of the Marine Corps, stated that ''threatening a detainee with imminent death, to include drowning, is torture.'' No equivocation there. Nothing about ''facts and circumstances.'' He did not need to hear more. Simulated drowning is torture.

Malcolm Nance is a former master instructor and chief of training at the U.S. Navy Survival, Evasion, Resistance and Escape School. He trained Navy SEALS to resist torture, including waterboarding. Listen to what Mr. Nance, former master instructor of the SEALS, had to say:

> I know the waterboard personally and intimately. . . . I personally led, witnessed and supervised waterboarding of hundreds of people. . . . Waterboarding is a torture technique. Period. There is no way to gloss over it or sugarcoat it. . . . Waterboarding is slow motion suffocation with enough time to contemplate the inevitability of black out and expiration—usually the person goes into hysterics on the board. . . . When done right it is controlled death.

Each year, our State Department stands in judgment of the human rights record of the world. It is a rather bold thing for us to do, to say that our Nation has the moral authority to judge all the nations in the world when it comes to human rights. This is not the first President to do it. Many before have. Our own State Department has long recognized that waterboarding is torture and repeatedly criticized countries such as Sri Lanka and Tunisia for the use of the technique—a technique Judge Mukasey will not even acknowledge as torture.

For over 100 years, our Government has treated waterboarding as a crime.

Judge Evan Wallach, who used to work for majority leader HARRY REID, is a former military lawyer and expert on waterboarding. He recently wrote a study that concluded:

In all cases, whether the water treatment was applied by Americans or to Americans, or simply reviewed by American courts, it has uniformly been rejected as illegal, often with severely punitive results. . . .

In April of 1902, 105 years ago, during the U.S. occupation of the Philippines, Secretary of War Elihu Root directed that officers alleged to have used water torture be tried by court-martial. That year, U.S. Army MAJ Edwin Glenn was convicted of having ordered and directed the application of the so-called water cure. Army Judge Advocate General George Davis said of Major Glenn that he was guilty of ''a resort to torture with a view to extort a confession.'' Mr. President, 105 years ago we convicted an American soldier of engaging in torture, for using waterboarding in the Philippines.

What happened after World War II? The United States prosecuted Japanese military personnel as war criminals for waterboarding U.S. and other prisoners.

At the U.S. military commission at Yokohama, we tried three Japanese defendants for torture. The charges included ''fastening [an American Prisoner of War] on a stretcher and pouring water up his nostrils.'' During the trial, Thomas Armitage, one of the American victims, described it. This is what he said:

[T]hey would lash me to a stretcher then prop me up against a table with my head down. They would then pour about two gallons of water from a pitcher into my nose and mouth until I lost consciousness.

What did we say of the Japanese soldiers responsible for that heinous conduct? We said they were guilty of war crimes—war crimes against American soldiers and prisoners. They were convicted and sentenced to between 15 and 25 years of confinement at hard labor—for a crime that this man who would be our Attorney General cannot acknowledge as obvious, clearly illegal, and inconsistent with America's values.

In the trial of a Japanese soldier for the torture and murder of Philippine civilians, one victim testified:

I was ordered to lay on a bench and [they] tied my feet, hands and neck to that bench lying with my face upward. After I was tied to the bench [they] placed some cloth on my face and then with water from the facet they poured on me until I became unconscious.

What does it take? What does it take to get this man who wants to be the premier law enforcement official in America to acknowledge the obvious? Waterboarding is torture. Waterboarding is illegal. Waterboarding is unconstitutional and inconsistent with American values.

Some within this administration share the puzzlement that Judge Mukasey has over torture. Apparently, Vice President DICK CHENEY is one. He was asked whether it would be acceptable to him to give a detainee ''a dunk in the water.'' The Vice President's response was: ''it's a no-brainer for me.''

And the Bush administration now seems to have reined in the State Department, despite the fact that we have condemned other nations for waterboarding. Earlier this week, John Bellinger, the State Department's top legal adviser, was asked whether there could be any circumstances in which a foreign government could justify waterboarding an American citizen. Listen to this response from the Bush administration as to whether an American citizen could be waterboarded:

One would have to apply the facts to the law, the law to the facts, to determine whether any technique, whatever it happened to be, would cause severe physical pain or suffering.

Incredible. We prosecuted Japanese soldiers for doing this to Americans, and now this administration, maintaining this notion that somehow this is a hazy, undefinable concept, will not even clearly condemn the use of waterboarding to torture Americans.

Judge Mukasey's position on waterboarding is troubling, but there are other serious concerns which I explained during the Judiciary Committee debate. He would not answer direct questions about other torture techniques even though the Judge Advocates General had made it clear they were torture. Sadly, time and again, he said his response would depend on the facts and circumstances.

Mr. President, I do not know when—I do not know if I will be here to see it; I may not be alive at the time—but history will be written about this moment. The history will be written about what we have done as a nation under the administration of George W. Bush. There will be good things said, I am sure, but there will also be chapters written about, how this administration raised an issue which we thought was a settled matter, how this administration has now brought in play the question of torture, how this administration has identified this great, caring, and good Nation with that issue.

Our only hope is that men and women of courage within this administration and outside will stand up and say clearly, once and for all, torture is un-American, torture is ineffective, and torture is unacceptable when applied to detainees in our control or to Americans in the control of others. Judge Mukasey would not say that. He was unwilling to make those statements.

I think this issue transcends many other issues. Some will come before us and say the problem here is Congress just has not done its job. If Congress would sit down and really put a good definition of torture together, then maybe we could ask Judge Mukasey about it, ask whether he would enforce it.

Really? Mr. President, 105 years ago, the United States knew waterboarding was torture and prosecuted an American soldier for engaging in it. Sixty years ago, we knew waterboarding was torture and prosecuted Japanese soldiers for war crimes. And now, in this moment in history, is there really any uncertainty? The real uncertainty is what the administration has done in the name of our country in the treatment of prisoners.

When the history of this time is written, there will be stories of courage and stories of cowardice. Rest assured, the United States will not be viewed kindly if we confirm as the chief law enforcement officer of this country someone who is unwilling or unable to recognize torture when he sees it.

I yield the floor.

The ACTING PRESIDENT pro tempore. Who yields time?

The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, the allocation has been made of 5 hours equally divided on the confirmation of Judge Michael Mukasey to be Attorney General and also to cover the Department of Defense appropriations bill.

I have been informed that I will be in charge of the allocation of time. So I say to my colleagues who want to speak in favor of former Judge Mukasey or who want to speak on the Defense appropriations bill on the Republican side, come to the floor and let me know how much time you would like. The Democrats who are speaking in favor of Judge Mukasey will come out of my time as well. We ought to have some idea as to how much time will be required. Five hours will put us close to midnight.

The ways of the Senate are wondrous. It is hard to figure out—we had our last vote at 11:45 and finished shortly after noon and could have started this debating process early in the afternoon. But, as I say, in the wondrous ways of the Senate, we could not begin it until 7 o'clock, until we had reached an agreement on procedural details, which might well have been done earlier. But I have been here a while, and I learned a long time ago the Senate is a lot smarter than I am, and we follow—we play the cards we are dealt. But I don't think there is any need for us to be in session until midnight, although things could get lively and perhaps some stray television viewers will turn on C–SPAN 2; they certainly wouldn't do it during the daytime when the soaps are on. But, it may well be that the time will be yielded back. And so, I inform my colleagues to not necessarily expect to vote as late as midnight, although that may be the case.

Now, on to former Federal Judge Michael Mukasey. He is a man with an outstanding record. If you went to central casting, you couldn't find a better prospect to be Attorney General of the United States on substance or on qualifications. He graduated from Columbia University in 1963, Yale Law School in 1967, and was on the Board of Editors of the Yale Law Journal. With credentials from Yale, including the Board of Editors, and his high academic standing,

these are excellent qualifications. He was an associate in a major New York law firm for 5 years after graduating from law school. He was then an assistant United States Attorney for the Southern District of New York from 1972 to 1976 and was chief of the Official Corruption Unit for 2 years. Then, he returned to the practice of law for 11 years and became a Federal judge in 1988, serving for almost two decades, through 2006. He was Chief Judge of the Federal Court in the Southern District of New York in Manhattan from 2000 to 2006 where he presided over some very important trials involving terrorism. The courthouse for the Federal court in New York was just a few blocks from the Trade Towers, which were victimized on September 11, 2001.

Now, a great deal has been said about the issue of waterboarding. The Senator from Illinois who just spoke said the morals of our country will be judged by what has gone on with Judge Mukasey's confirmation process. We have worked through this issue, and I believe we have a satisfactory resolution of it, which accomplishes the substance of what the Senator from Illinois was decrying.

I am opposed to waterboarding. I think waterboarding is torture. When the issue was before the U.S. Senate on the Military Commission Act, we had a vote, and this body voted 53 to 46 not to classify waterboarding as torture. That is what the Senate did. In another legislative matter, the Detainee Treatment Act, waterboarding was prohibited. But, as of this moment, the Congress of the United States has not spoken on the matter.

Now Judge Mukasey has stated that if waterboarding is declared the equivalent of torture, as Attorney General he will uphold that congressional determination, even if the President seeks to reject the statute by virtue of the President's Article 2 powers as Commander in Chief and other inherent authority, which the President possesses under Article 2. Now that is exactly what the President did on the Terrorist Surveillance Program. The Foreign Intelligence Surveillance Act enacted in 1978 specifies that the exclusive way to wiretap is to go to a Federal judge with a statement of probable cause and get a warrant—judicial approval—to do the wiretapping. But, President Bush said he had authority to disregard the statute because he had constitutional authority.

As a matter of constitutional doctrine, you can't amend the Constitution with a statute. To amend the Constitution, you have to have a constitutional amendment. An amendment must pass the Congress by a two-thirds vote and be ratified by three-fourths of the States.

So the President took the position that his constitutional power superseded the statute, and he rejected it and ignored it. I have grave doubts about the propriety of what the President did. We didn't find out about it until it was disclosed in the newspapers in mid-December of 2005 when we were in the midst in this Chamber of debating the PATRIOT Act. I chaired the Judiciary Committee, and I was at this podium managing that bill when the news broke in the morning papers that day, and a number of Senators said they were prepared to vote for the PATRIOT Act until they found out what had been done secretly under the Terrorist Surveillance Program.

As the record shows, we didn't pass the bill until early in 2006. But the relevance of that procedure is that there was concern that even if Congress said waterboarding was torture and was therefore illegal, the President might seek to use his Article 2 powers to ignore that law.

The first disclosure that former Judge Mukasey would not uphold that type of Presidential action came with a disclosure by Senator SCHUMER about a meeting he had with former Judge Mukasey last Friday. It appeared in the press that Judge Mukasey would say the congressional enactment was controlling. I then had a discussion by telephone with Judge Mukasey last Monday morning to be explicit and to confirm what I had read in the papers. Not wanting to rely on that, Judge Mukasey told me he that it was his legal judgment that Congress had the constitutional authority to legislate, to say waterboarding was torture and was, therefore, illegal. And if such legislation was enacted, then it was Judge Mukasey's legal judgment that the President could not supersede the statute and could not rely on Article 2 power to ignore that finding. That was confirmed in writing.

I ask unanimous consent that a copy of that letter dated last Monday, November 5, be printed in the RECORD.

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

(See exhibit 1.)

Mr. SPECTER. I said in the letter, as the record will show, if Judge Mukasey had any difference with my statement, he should let me know promptly. I know it was received by White House personnel, and we communicated, staff to staff, about it, and that is a binding commitment. That commitment, in conjunction with Judge Mukasey's response to my questioning—I asked him if the President of the United States ignored his advice as Attorney General if and when confirmed on a matter of serious import, would Judge Mukasey resign as Attorney General, just as Attorney General Elliot Richardson had resigned on the Saturday Night Massacre when efforts were made to stop the investigation of President Nixon at that time, and Judge Mukasey said he would resign. So, I think we have a very solid record.

Now, I do believe there were reasons Judge Mukasey did not express a judgment on waterboarding as being torture, although candidly it would have been my preference if he had done so and if he had agreed with my vote on the subject. But, Judge Mukasey said in written responses that he believed he could not make that pronouncement without placing people at risk to be sued or perhaps even criminally prosecuted. A few weeks ago, former Secretary of Defense Rumsfeld was in Paris at a time when people sought legal process against him. It was unclear whether it was a criminal procedure or a civil procedure, but we do know that many nations are exercising extraterritorial jurisdiction when they may consider conduct to be a violation of the law against humanity.

We know, for example, that Israeli Prime Minister Sharon was indicted, I believe it was in Belgium. They couldn't serve the warrant, but had he gone to Belgium. He would have been subject to that process. We know the case of Pinochet from Chile where extraterritorial jurisdiction was sought as to him. So this is a matter of some considerable import.

Professor Goldsmith wrote, speaking from his experience as Assistant Attorney General in the Office of Legal Counsel, that members of the administration had expressed concerns that they might be subject to civil liability or even criminal liability if it was later determined that some of their conduct was illegal. So, Judge Mukasey faced a situation where an expression of an opinion by him would put people at risk.

Professor Goldsmith, in a book which was recently published, documented the concern that members of the administration had expressed. Judge Mukasey also sought to explain his unwillingness to give a legal opinion on whether waterboarding was torture because he hadn't been read into the program. I thought that was inadequate and insufficient. While it is true he was not read into the program, there is no doubt it would have been easy for him to have been read into the program. The investigation which had been conducted prior to the President submitting his name to the Senate as a nominee for Attorney General was very thorough, and there is no doubt that he would have been entrusted with whatever classified information was involved in being informed on the issue of waterboarding. So I thought that was an excuse and not weighty—or not a valid excuse.

Parenthetically, I think it is worth noting that there are members of the Judiciary Committee who were called upon to pass on Judge Mukasey's qualifications who had not been read into the program on waterboarding; that is, to know specifically what it was, whether it was used, what it was all about, was it entirely hypothetical, or what the facts were. We have some members of the Judiciary Committee—four—who are on the Intelligence Committee. The chairman and I as ranking member were read into the program. I tried to get the administration to read

the members of the Judiciary Committee into the program, but the administration wouldn't do it. Now, they read the Intelligence Committee into the program, and I think the Intelligence Committee should have been read into the program, but the operative committee to pass on Judge Mukasey was not the Intelligence Committee. It was the Judiciary Committee. We voted on Judge Mukasey with members of the Judiciary Committee not knowing the specifics on waterboarding to have a sufficient basis, in my view, to cast an intelligent vote. But the administration precluded that. This evening, there will be about 80 Senators—if they stay up until midnight, or whenever it is that we vote—who will be voting on Judge Mukasey and waterboarding is going to be a central issue of the debate tonight—without knowing the details of what waterboarding is.

The brutal fact is that the administration has not given Congress the information Congress should have received so that we can perform our oversight function. The Intelligence Act requires that members of the Intelligence Committee be notified of matters such as the secret terrorist surveillance program, and it may be that a few Members of Congress—the Speaker of the House, the senior Republican in the House, the majority leader of the Senate, and the minority leader of the Senate—were informed about the terrorist surveillance program. It may be that, finally, the chairman and ranking members on the Intelligence Committee in both Houses were informed. But the full committee, under the statute, was supposed to be informed. The administration didn't follow the statute as they should have. It was only when the confirmation of General Hayden came before the Senate that the administration finally notified the Intelligence Committee.

I voted against General Hayden to be Director of the CIA as a protest vote. I said he was well qualified for the job, and I voted against him as a protest because the administration had not followed the law. They should have informed me, as chairman of the Judiciary Committee in the 109th Congress, and Senator LEAHY, as ranking member. That is a statement of what might be considered as a collateral matter. It is relevant in this discussion because Judge Mukasey was not read into the program. I think he should have been. I don't know that he would have said anything more. But now the ball is squarely in our court—the congressional court. Legislation is pending that would make waterboarding torture and, therefore, illegal.

This is the kind of question which I think is a quintessential example of what the Congress of the United States ought to decide. In a representative democracy, the Congress ought to make the determination of what is the appropriate public policy, and the Congress ought to assess the risk of terrorism—what is the risk to the United States?—and then consider the conduct of waterboarding. What does it do? How frequently has it been used, if at all? Where is there an intent to use it? The Congress ought to make this evaluation and make the decision. We are the proper people to decide that issue. If the Congress enacts legislation that is signed into law, then Judge Mukasey has stated unequivocally that he would enforce it.

Then there is another issue we all dance around, and that is the issue of the so-called ticking-bomb case. That is the situation described where a terrorist may come into possession of a powerful weapon—perhaps even a nuclear weapon—and, regrettably, that is not beyond the realm of possibility. There might be a situation where someone would know information that could stop the ticking bomb and injury to an enormous number of people could be prevented. What is to be done in that situation?

The generalized statements that have been made by so-called leaders in our society are that we ought not to define that situation. They say, if we were to say that torture, waterboarding, or some other extreme form of interrogation were legal under even the most limited circumstances, that we would give legitimacy to waterboarding, to torture. And then with an exception, you find people that say—as the expression goes, the hole is so big, you could drive a truck through it. But, if this Senate and the House take up our duty to decide whether waterboarding is torture, we ought to make a decision as to whether it could be used in any circumstance. Perhaps we should decide it should be used in no circumstance.

There has also been discussion about legislation to define the extraordinary circumstances when torture would be permitted—with a warrant application to a judge. We ask for judicial approval on wiretapping or warrants of arrest or on a variety of issues.

Then there are some who the surmise that if the President was faced with a situation of a ticking bomb, it would be up to the President to act under those exigent circumstances, and he could be relied upon. But that is not so easy either because it may well be—and I think, in fact, is—that agents of the CIA would not undertake, under a Presidential order, a violation of U.S. law because no one is above the law. Even if the President were to authorize it, the President doesn't do the waterboarding or interrogation. Those people would be unwilling to undertake something that was a violation of law.

There was a famous case, after World War I, where a ship was sunk by a submarine. The survivors in the lifeboat were at sea, and the submarine surfaced. The commander ordered the gunner to shoot the people in the lifeboat. The gunner resisted for a while, and then he followed his orders. He shot and killed the people in the lifeboat. The gunner was prosecuted, and he defended that he was following orders. The court said that you cannot follow illegal orders. Anybody should know better than to shoot people in a lifeboat.

So we have a major issue to consider as it relates to the confirmation of Judge Mukasey, and I think the ball is now in our court. He will enforce legislation that equates waterboarding with torture.

There are a couple of other points worthy of comment. I was not satisfied with Judge Mukasey's response to my questions on signing statements. We have seen that the President of the United States now does not follow the constitutional options when legislation is presented to him having been passed by both bodies, both Houses, where the Constitution says the President has the choice of signing it or vetoing it. We now find that he signs it and issues the signing statement, cherry-picking, deciding which of the provisions he will enforce and which he will not enforce.

One of the measures passed by Congress by a 90-to-9 vote of the Senate was prohibiting interrogation that met certain standards. The President had a famed rapprochement with Senator MCCAIN on the point. They came to terms. We passed the McCain language. Then the President issued a signing statement which, in effect, said he retained his Article II powers not to follow it.

The PATRIOT Act, which came out of the committee during my tenure as chairman, gave the FBI substantial additional powers. In consideration of that, we reserved additional oversight. And then, notwithstanding that negotiation approved by the President's agents at the Department of Justice, the President issued a signing statement cherry-picking and leaving him free to disregard the oversight provision.

I think Judge Mukasey should have been unequivocal in condemning that practice and should have said he would advise the President to either sign legislation or veto it but not to cherry-pick. He had a very artful answer where he says he will try to avoid this kind of tension and conflict between the executive branch and the Congress. While I don't like that, I don't think it is a sufficient reason to vote against him.

Judge Mukasey was forthright on his views as to habeas corpus. He acknowledged that habeas corpus is a constitutional right, unlike his predecessor, who really rejected the plain English of the Constitution, which states that habeas corpus is a constitutional right.

Considering all of these factors, it is my judgment, after meeting informally with former Federal Judge Mukasey and participating in the extensive hearings and reviewing answers to many written questions, that Judge Mukasey is well qualified to be Attorney General. I think it unfortunate that there will be many negative votes

against him. I think those negative votes will be in the context of this waterboarding issue, where there are very substantial emotional and political considerations involved, and Senators exercise rights to vote as they choose. But I do believe that even those who vote against Judge Mukasey will acknowledge his qualifications. He is well qualified by way of academic and professional background, and he has a very sterling record as a judge; that he is honest, forthright, and talented. He is a lawyer's lawyer or a judge's judge. When you talk to him or question him at a hearing, you get back very sophisticated, erudite answers, analytically displaying a vast knowledge of the Constitution and the cases which have been interpreted. What weighs heavily in my mind on Judge Mukasey is the urgent need of the Department for new leadership.

I thank the chairman for having a special markup on Tuesday. It was extra work for the committee, but Senator LEAHY called the Judiciary Committee together for an extra markup. He has exercised the leadership to bring this matter to a vote tonight.

I thank the distinguished majority leader also for scheduling the vote, because the Department of Justice needs Judge Mukasey at work tomorrow morning. They need to have him sworn in sometime between the vote of confirmation tonight and 8 a.m. tomorrow, when people ought to report to work at the Department of Justice. The Department of Justice has been categorized as dysfunctional, in disarray. It is in urgent need of an Attorney General. When that is done, I think we will see some nominations for Deputy, which is vacant. An Associate Attorney General is only an acting deputy, and a number of assistants are only acting.

All things considered, I think it is in the national interest that we confirm former Federal Judge Mukasey. I predict he will do a sterling job as Attorney General.

How much time remains, Mr. President?

The ACTING PRESIDENT pro tempore. The Senator has 2 hours remaining under his control.

Mr. SPECTER. I thank the chair and yield the floor.

EXHIBIT 1

U.S. SENATE,
Washington, DC, November 5, 2007.

Hon. MICHAEL B. MUKASEY,
Avenue of the Americas,
New York, NY.

DEAR JUDGE MUKASEY: I think it is important to have our telephone conversation of this morning on the record so I'm writing to confirm the following:

(1) In your opinion, Congress has the constitutional authority to legislate that waterboarding is torture and is therefore illegal; and

(2) If such legislation is enacted, it is your opinion that the President would not have the authority under Article II of the Constitution to overrule that legislation.

If I have inaccurately stated our conversation, I would appreciate your prompt advice.

As we discussed, the New York Times on Saturday quoted Senator Schumer on your commitment to the same effect. If I do not hear from you to the contrary, I intend to release this letter to the news media because this information would be important on the Senate's consideration of your confirmation.

Sincerely,

ARLEN SPECTER.

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

Mr. LEAHY. Mr. President, how much time has been reserved for the Senator from Vermont?

The ACTING PRESIDENT pro tempore. The Senator has 45 minutes.

Mr. LEAHY. How much time is reserved overall for those in opposition to this nomination?

The ACTING PRESIDENT pro tempore. An hour and 45 minutes. Twenty has been used, so 1 hour 25 minutes remains.

Mr. LEAHY. I thank the Chair.

Mr. President, this debate is as much a discussion of principles that are vital to American ideals and to the American soul as it is a debate about who is going to act as the Attorney General for the next 14 months.

During the Judiciary Committee's consideration of this nomination earlier this week, Senators KENNEDY, KOHL, FEINGOLD, DURBIN, CARDIN, WHITEHOUSE, and I made clear the fallacy that would disregard settled law and discredit America's role in the struggle for liberty and human dignity, something we should all support.

On the way to rationalizing support for a particular nominee, just as with rationalizing support for a particular piece of legislation, it may be tempting this once—just this once, we might tell ourselves—tacitly to abet the arguments of those who want to define torture down to make it something less. Whatever the temptation—whatever the temptation, this once—we cannot rationalize away our core American ideals, the rule of law, and the principle that in America, not even the President is above the law.

The President and Vice President should not be allowed to violate our obligations under the Convention Against Torture and the Geneva Conventions, should not be allowed to disregard U.S. statutes, such as our Detainee Treatment Act and War Crimes Act. They should not be allowed to overturn more than 200 years of our Nation's reverence for human rights and moral leadership around the world.

The administration has compounded its lawlessness by cloaking its policies and miscalculations under a veil of secrecy. They left the Congress, they left the courts, and, most importantly, they left the American people in the dark about what they were doing. The President says we do not torture, but then he had his lawyers redefine ''torture,'' and he had them do that in secret memos, in fundamental conflict with American values and law.

Again, yesterday, I wrote to the White House counsel reiterating my earlier request for this administration's secret, purported justifications for having Americans engage in waterboarding and other treatment that would violate our Nation's obligations and values.

I ask unanimous consent to have printed in the RECORD a copy of my most recent letter to Counsel Fielding on this point.

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

U.S. SENATE,
COMMITTEE ON THE JUDICIARY,
Washington, DC, November 7, 2007.

Mr. FRED FIELDING, Esq.,
Office of the Counsel to the President,
The White House, Washington, DC.

DEAR MR. FIELDING: I have not received a reply to the letter I sent to you almost two weeks ago seeking a fuller accounting of this Administration's legal justifications and policies with regard to torture and interrogation. Another copy of my unanswered October 25, 2007, letter is enclosed.

Over the past few days I have read in the press that there may, in fact, be three legal memoranda from the Justice Department's Office of Legal Counsel in 2005, not just two, that have been withheld from us. Apparently, the Administration has conceded the existence of three such memoranda in court filings this week. Without even an accounting from you and the Administration, it is impossible for me to know.

As I have previously noted, the Committee does not yet have a complete picture of the Administration's historic position on the legal basis and standards for detention, transfer, and interrogation in connection with counter-terrorism efforts. It is important that you share with the Senate Judiciary Committee all legal opinions on these issues from the Office of Legal Counsel and elsewhere in the Department of Justice and the Administration. I noted in my previous letter that you have not, despite our repeated requests, provided us with the 2005 memoranda that apparently authorize the use of combinations of cruel and extreme practices. We are fast approaching the one-year anniversary of my November 15, 2006, request for ''any and all Department of Justice directives, memoranda, and/or guidance . . . regarding CIA detention and/or interrogation methods.''

I regret that you did not take the opportunity created with the announced resignation of Alberto Gonzales to work with us to put these matters to rest. The first step would have been disclosure of the legal memoranda still being kept secret from the Senate Judiciary Committee. That has yet to occur. As you have recently witnessed, without these materials and a shared understanding of what the Administration has been doing, is doing, its justifications, its legal analysis, and its purported basis for overriding our laws and treaty obligations, many Members of the Committee remain very concerned.

Much of the controversy and discussion surrounding the Committee's consideration of the President's nomination of Michael Mukasey to serve as Attorney General arose from these matters. The Administration's lack of cooperation greatly contributed to the controversy and ultimately to the opposition to that nomination.

Sincerely,

PATRICK LEAHY,
Chairman.

Mr. LEAHY. Mr. President, I agree with the generals, the admirals, and the judge advocates general that waterboarding is torture and is illegal. The generals, the admirals, the judge

advocates general say waterboarding is torture and illegal.

I ask unanimous consent to have printed in the RECORD a copy of a letter I received from MG John Fugh, RADM Don Guter, RADM John Hutson, and BG David Brahms, dated November 2.

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

NOVEMBER 2, 2007.

Hon. PATRICK J. LEAHY,
Chairman, U.S. Senate,
Washington DC.

DEAR CHAIRMAN LEAHY: In the course of the Senate Judiciary Committee's consideration of President Bush's nominee for the post of Attorney General, there has been much discussion, but little clarity, about the legality of ''waterboarding'' under United States and international law. We write because this issue above all demands clarity: Waterboarding is inhumane, it is torture, and it is illegal.

In 2006 the Senate Judiciary Committee held hearings on the authority to prosecute terrorists under the war crimes provisions of Title 18 of the U.S. Code. In connection with those hearings the sitting Judge Advocates General of the military services were asked to submit written responses to a series of questions regarding ''the use of a wet towel and dripping water to induce the misperception of drowning (i.e., waterboarding). . . .'' Major General Scott Black, U.S. Army Judge Advocate General, Major General Jack Rives, U.S. Air Force Judge Advocate General, Rear Admiral Bruce MacDonald, U.S. Navy Judge Advocate General, and Brigadier Gen. Kevin Sandkuhler, Staff Judge Advocate to the Commandant of the U.S. Marine Corps, unanimously and unambiguously agreed that such conduct is inhumane and illegal and would constitute a violation of international law, to include Common Article 3 of the 1949 Geneva Conventions.

We agree with our active duty colleagues. This is a critically important issue—but it is not, and never has been, a complex issue, and even to suggest otherwise does a terrible disservice to this Nation. All U.S. Government agencies and personnel, and not just America's military forces, must abide by both the spirit and letter of the controlling provisions of international law. Cruelty and torture—no less than wanton killing—is neither justified nor legal in any circumstance. It is essential to be clear, specific and unambiguous about this fact—as in fact we have been throughout America's history, at least until the last few years. Abu Ghraib and other notorious examples of detainee abuse have been the product, at least in part, of a self-serving and destructive disregard for the well-established legal principles applicable to this issue. This must end.

The Rule of Law is fundamental to our existence as a civilized nation. The Rule of Law is not a goal which we merely aspire to achieve; it is the floor below which we must not sink. For the Rule of Law to function effectively, however, it must provide actual rules that can be followed.

In this instance, the relevant rule—the law—has long been clear: Waterboarding detainees amounts to illegal torture in all circumstances. To suggest otherwise—or even to give credence to such a suggestion—represents both an affront to the law and to the core values of our Nation.

We respectfully urge you to consider these principles in connection with the nomination of Judge Mukasey.

Sincerely,

Rear Admiral Donald J. Guter, United States Navy (Ret.), Judge Advocate General of the Navy, 2000–02; Rear Admiral John D. Hutson, United States Navy (Ret.), Judge Advocate General of the Navy, 1997–2000; Major General John L. Fugh, United States Army (Ret.), Judge Advocate General of the Army, 1991–93; Brigadier General David M. Brahms, United States Marine Corps (Ret.), Staff Judge Advocate to the Commandant, 1985–88.

Mr. LEAHY. Mr. President, these distinguished military officers, flag officers, people who are charged with knowing what is our law, what is our Constitution, what are our treaty commitments, and what are the rules our military must follow, write with absolute clarity, and I quote the significant sentence from their letter:

Waterboarding is inhumane, it is torture, and it is illegal.

They also quote the sitting judge advocates general of the military services from our committee's hearing last year in which they unanimously and unambiguously agreed that waterboarding is inhumane, it is illegal, it is a violation of law.

Think for a moment, if another nation picked up an American and waterboarded that American and we heard about it; no Senator, no American would have to know the circumstances and the purported justifications for it. We would condemn it. All 100 of us would be on the floor condemning it, and 435 members of the other body would be condemning it. Whoever was President of the United States would condemn it. But you know what, that was before this debate began, and now, tragically, this administration has so twisted America's role and our laws and values that apparently our own State Department is now ordered they cannot say that waterboarding of an American is illegal.

Mr. President, that is how far we have sunk. I ask unanimous consent to have printed in the RECORD a copy of a letter I sent to Secretary Rice protesting this order.

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

U.S. SENATE,
COMMITTEE ON THE JUDICIARY,
Washington, DC, November 6, 2007.

Hon. CONDOLEEZZA RICE,
Secretary of State,
Washington, DC.

DEAR SECRETARY RICE: There are reports that one of your principal aides and legal advisers, a Mr. John Bellinger, is taking the legal position that he cannot say whether it is permissible to waterboard Americans and that it depends on the facts and circumstances. I could not disagree more strongly. There are no conceivable facts or circumstances that would justify waterboarding an American anywhere in the world for any reason. Our treaty obligations and domestic law make waterboarding illegal. Please respond without delay and set this matter straight.

Sincerely,

PATRICK LEAHY,
Chairman.

Mr. LEAHY. Mr. President, senior State Department legal officers are told that waterboarding, which has been recognized as torture, not for the last 10 years or 50 years or 100 years, but has been recognized as torture for the last 500 years, is a ''technique'' they cannot rule out as something a foreign intelligence service might be justified in using against Americans. This is ''Alice in Wonderland.''

Never mind that President Teddy Roosevelt, no shrinking violet he, prosecuted American soldiers for this more than 100 years ago. Never mind that we prosecuted Japanese soldiers for waterboarding Americans during World War II. Never mind what repressive regimes are doing to this day around the world. It is appalling.

When it comes to our core values—the things that make our country great, that define America's place in the world—it does not depend on the circumstances; it depends on our core values. America, the great and good nation that has been a beacon to the rest of the world on human rights, does not torture, it should not stand for torture, and it should stand against torture.

I ask unanimous consent to have printed in the RECORD a copy of a letter I received from the National Religious Campaign Against Torture, dated November 1.

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

NATIONAL RELIGIOUS CAMPAIGN
AGAINST TORTURE,
Washington, DC, November 1, 2007.

Hon. PATRICK LEAHY,
Chairman, U.S. Senate, Committee on the Judiciary, 433 Russell Senate Office Building, U.S. Senate, Washington, DC.

DEAR SENATOR LEAHY: The National Religious Campaign Against Torture (NRCAT), a campaign of over 130 religious organizations working together to abolish U.S.-sponsored torture and cruel, inhuman or degrading treatment of anyone, without exception, is deeply concerned about the responses Judge Michael Mukasey gave both at his nomination hearing and in his most recent written response on the subject of torture. We believe his answers leave open the door to the use of techniques by the U.S. government that would be cruel, inhuman and degrading and that could amount to torture. This is true not only for waterboarding, which is clearly illegal and a form of torture, but also for a number of other techniques we understand the CIA has used and may continue to use.

Our country already knows what happens when we have an Attorney General who countenances torture and cruel, inhuman or degrading treatment. We lose our moral compass; decent Americans are called upon on our behalf to commit acts that damage their souls; our soldiers who may be captured are placed in greater jeopardy; we are shamed in the eyes of the world.

It is time to turn a new page; the confirmation of a new Attorney General is such an opportunity. It would be tragic to allow an individual who has not clearly rejected the illegal and immoral practices of torture and cruel, inhuman degrading treatment to become the leading law enforcement officer of our nation.

NRCAT members, who include representatives from the Catholic, evangelical Christian, mainline Protestant, Orthodox Christian, Unitarian Universalist, Jewish, Quaker,

Muslim, and Sikh communities, believe that torture violates the basic dignity of the human person that all religions, in their highest ideals, hold dear. It degrades everyone involved—policy-makers, perpetrators and victims—and it contradicts our nation's most cherished values. We believe that any policies that permit torture and inhuman treatment are shocking and morally intolerable.

We urge you to approve a nominee as Attorney General who is unequivocal in his or her stance against the use of torture and cruel, inhuman or degrading treatment.

Sincerely,

LINDA GUSTITUS,
President.
REV. RICHARD KILLMER,
Executive Director.

Mr. LEAHY. Mr. President, what do we set as an example? We lose our way on this question of torture. When America arranged to have a Canadian citizen, changing a plane in the United States on the way to Canada, sent to Syria to be tortured, what did we tell the rest of the world? I will tell you what we told the rest of the world: Here we have the outrageous conduct of President Musharraf's Government in Pakistan. He is closing down the courts, he is closing down the opposition, he is closing down the press. We have to meekly say: Please don't do that; we do send you billions of dollars in aid; please don't destroy democracy.

A Cabinet Minister in his Government was interviewed yesterday on a Canadian show. When he was asked if he was ashamed of the images the world was seeing of Pakistanis being clubbed by police in the streets, part of his reply was this: Are other countries—referring to the United States—ashamed of taking persons from another country to a third country and torturing them? Are they ashamed?

I would like to think as Americans we hold the high moral ground, but we can be lectured because we have not, by the likes of a member of the Cabinet of a despotic regime in Pakistan, and there is no answer to it. There is no answer to it because what he objects to us doing is sending a citizen of another country who was on our land to Syria to be tortured, and we have no answer to that because this administration and this Government did it.

I am proud to be an American. I am so happy my maternal grandparents immigrated to this country from Italy and gave me a chance to be an American, as did my great-grandparents from Ireland. I am proud of it. I am proud to see my children growing up as Americans, now my grandchildren, as I know the distinguished Presiding Officer whose family has been in this country much longer than mine is proud of his American heritage. But torture should not be what America stands for. Indeed, the better example is set by the Army Field Manual, which instructs our forces to consider how we would react if what a soldier is about to do to someone was done to an American soldier. How would our soldiers react if they found somebody waterboarding an American soldier? They would do everything to rescue them because it would be wrong and it would be illegal. It is not just illegal and wrong if somebody else does it, it is illegal and it is wrong if we do it.

Sadly, when I cited this very standard in a written question to Judge Mukasey and asked if it would be an abuse if another country waterboarded an American, he sidestepped the question, and he failed to condemn even waterboarding of Americans. When we found our State Department to begin to do the same, I saw a pattern.

In their recent letter to the nominee, Senators WARNER, MCCAIN, and GRAHAM do not take that approach. They recognize, as I do and I hope all Senators do, that waterboarding, under any circumstances, represents a clear violation of U.S. law. That is what Senators WARNER, MCCAIN, and GRAHAM said. As chairman of the Senate Judiciary Committee, I agree with them.

When the administration and others state that we cannot state whether America waterboards people because it would tip off our enemies, they have it precisely wrong. That is about as effective as Saddam Hussein hinting that he had weapons of mass destruction, even though he did not, as he tried to impress his enemies.

In refusing to say we do not waterboard prisoners, what do we do? We end up giving license to others. When the United States cannot state unequivocally that waterboarding is torture and illegal and will not be tolerated, what does that mean for other Governments? What comfort does that provide the world's most repressive regimes? How does it allow the United States, that hitherto has been a beacon for human rights, to criticize or lecture these repressive regimes that torture that way?

Some have sought to find comfort in Judge Mukasey's personal assurance that he would enforce a future, some kind of new law against waterboarding if Congress were to pass one. Even some in the press have used that talking point from the White House. Any such prohibition would have to be enacted over the veto of this President, a President who has not ruled out the use of waterboarding.

But the real damage in this argument is not its futility. The real harm is that it presupposes we don't already have laws and treaty obligations against waterboarding. As we know, when we enter a treaty, it becomes the law of the land. We have laws already against it. We don't need a new law. No Senator should, with any kind of clear conscience, abet this administration's legalistic obfuscations by those, such as Alberto Gonzales, who take these positions, or John Yoo and David Addington, by agreeing somehow that the laws we already have on the books do not already make waterboarding illegal. We have been properly prosecuting water torture for more than 100 years.

Vote for the nominee or vote against the nominee, but don't hide behind some kind of a cloak and say maybe we should have a law in the future. We have that law. This is as if, when somebody murders somebody with a baseball bat, they were to say: We had a law against murder, but we never mentioned baseball bats. Murder is murder; torture is torture. Our laws make both illegal, and our laws—but especially our values—do not permit this to be an open question or even one that depends on who is doing the waterboarding. We cannot say it is wrong when other countries do it but, of course, it is right when we do it because our heart is pure. That is a prescription for disaster. That is what heightens the risk to American citizens and soldiers around the world, and it gives repressive regimes comfort, and that is something I will not do.

I will not accept this fallacious argument. I will not accept this pretense that it is OK because we have not yet passed a law, when that has always been the law in the United States. It was in Theodore Roosevelt's day, it was when we prosecuted Japanese soldiers after World War II for waterboarding, and it is today.

It would be like saying we haven't a specific law for some of the things done in Abu Ghraib. Of course, we had not. We knew such actions violated every principle of our law. Are we going to say, however, it was all right because we didn't have spelled out in the law every single thought that could be raised about torture so we could specifically cite to that?

Mr. President, hasn't there been enough harm done to the United States by the images of Abu Ghraib? Hasn't there been enough harm done to the United States by this Government intentionally taking a Canadian citizen and sending that citizen to Syria to be tortured? Hasn't there been enough harm done to this country that we don't need to have Senators stand on the floor of the Senate and say: Well, maybe sometime in the future we should have a law against waterboarding, when our top military and everybody else all agree this is already against the law.

Now, I wish I could support Judge Mukasey's nomination because I like him. I like his legal abilities. I like his background as a prosecutor. He is a tough, no-nonsense prosecutor. But we are dealing with an administration that has been acting outside the law, an administration that has now created a confirmation contortion. Mr. President, I am not a moral contortionist, and I am not going to aid and abet the confirmation contortions of this administration. When many of us voted to confirm General Petraeus, the administration turned around and, for political advantage, tried to claim when we voted to confirm the general, we also voted for the President's war policies. Well, I did not vote for a war in Iraq. I voted against it. And I do not vote to allow torture. And just as I do not support this President's Iraq policy, I do not support his torture policy

or his views of unaccountability or unlimited Executive power.

No one is more eager to restore strong leadership and independence to the Department of Justice than I. For almost 3 years, it has been leaderless. For almost 3 years, it has engaged in every single effort not to follow the law, but to find ways around the law. That has created a terrible problem of morale among the very wonderful men and women, the talented men and women who work there.

We all know what we need most right now is an Attorney General who believes and understands there must be limitations on Executive power. Whether the Executive is a Republican or a Democratic President, there have to be limitations. America needs to be certain of the bedrock principles of our laws and our values and that no President, no American, can be authorized to violate them. In America, no one is above the law. The President of the United States is not above the law. He is not allowed to place anybody else above the law. That is what has maintained this democracy for over 200 years.

When we began considering this nomination, I observed that the Department of Justice has experienced an unprecedented crisis of leadership. It is a crisis that has come more and more into view as Senator SPECTER and I have led a bipartisan group of concerned Senators serving on our Judiciary Committee to consider a U.S. attorney firing scandal, a confrontation over the legality of the administration's warrantless wiretapping program, and the politicization of hiring at the Department of Justice. What we have seen is not just poor leadership, but the complete breakdown of the principles that have always embodied the Department of Justice and the position of Attorney General.

For me, the issue has never been personal to Alberto Gonzales. The Judiciary Committee's investigations into the Department's many scandals were not designed to force the resignation of Alberto Gonzales, but rather to restore the integrity and the mission of the Department of Justice. My goal was not to force his resignation but to restore the Department of Justice. That the administration had him remain more than 6 months after the U.S. attorney firing scandal was known continued the harm and forestalled the restoration of order.

It was not just the fact that he lost my confidence that forced him to leave. It was not the Senate passing a resolution of no confidence. Rather it was our bipartisan efforts in which Republicans and Democrats who care about Federal law enforcement and the Department of Justice joined together to press for accountability.

The issue during the Senate confirmation of Alberto Gonzales remains today. The Department of Justice has always set out to enforce the law and to ensure that no one, not even the President, is above the law. As we consider the nomination of Michael Mukasey, we must determine what kind of Attorney General he would be and whether he will stand for the rule of law against the demands of this White House.

I began my consideration of this nomination as I did with the last Attorney General nomination, hoping to be able to support the nominee. After the hearing for the last nominee in 2005, I decided that I could not vote for the confirmation of Alberto Gonzales. I did so noting, as Justice James Iredell had in 1792, that the person who serves as Attorney General ''is not called Attorney General of the President, but Attorney General of the United States.'' This is a different kind of Cabinet position, distinct from all the others, and it requires greater independence. The departing Attorney General never understood this. Instead, he saw his role as a facilitator for this White House's overreaching policies and partisan politics.

The crisis of leadership that led to the resignation of the entire senior leadership of the Department and their staffs, as well as Karl Rove and his two top aides at the White House, has taken a heavy toll on the tradition of independence that had long guided the Department of Justice and protected it from political influence. As a former prosecutor I know that the dismay runs deep, from the career attorneys at Justice and in our U.S. attorney offices, straight down to the cops on the beat.

The Senate should only confirm a nominee who will bring a commitment to the rule of law and American liberties and values back to the Justice Department. As I have reviewed Judge Mukasey's nomination, I have found much to like. He has impressive credentials, vast experience as a lawyer and a judge, and a refreshingly straightforward manner. I liked him when I met him, and I am convinced that he is a man of integrity and would not be governed merely by personal or political loyalty.

At his hearing, he answered firmly that he would not tolerate political meddling in investigations or litigation and would end hiring based on politics, and he was clear in asserting that he would resign if the President insisted on going forward with a course of action he had found to be illegal. These were encouraging signs.

But I am concerned that he shares with this administration a view of virtually unbridled executive power and authority. In these uncertain times, it may be tempting simply to defer the Commander in Chief, but I believe that in difficult times, it is more important than ever to insist on the rule of law and the principles that have made our country unique in the world for more than 200 years. Even Judge Mukasey's strong promise to resign if the President insists on an illegal course of action loses its power if he believes the President to be largely unconstrained by law. If nothing the President can do would be illegal, there would never be an occasion for him to make such a principled stand.

That is why I was so disappointed by Judge Mukasey's answers suggesting that he sees little occasion to check the President's power. I was disturbed by his insistence that, with regard to warrantless wiretapping and the Foreign Intelligence Surveillance Act, the President has inherent authority outside of the statute and could authorize and immunize conduct contrary to the law. I fail to see a valid distinction justifying his assertion that the President could have the power of an executive override in the surveillance context, but not in the torture context, and I worry about where his reasoning could lead us.

I was disappointed in his abandoning his initial answer to parrot the White House's conclusion that a U.S. attorney could not bring a congressional contempt citation to a grand jury. That is the mechanism in the law that allows an independent court the opportunity to referee any claim of executive privilege that the executive and legislative branches could not resolve amongst themselves. He, instead, insisted that the solution in such a situation was an ''accommodation'' of the kind that this administration has been consistently unwilling to make. Once again, his position leads me to worry that he would allow this President's unprecedented assertions of power to go completely unchecked.

I was saddened to hear Judge Mukasey say that he apparently would not support habeas corpus rights for detainees, rejecting a core legal right and a basic American value which Senator SPECTER and I have fought so hard to restore. I was disappointed to see him echo in response to my questions the same administration policy on extraordinary rendition that has led to several disgraceful episodes for this Nation and fail to commit even to review the case of Maher Arar, a prominent and disturbing episode of rendition.

Which brings me back to the issue that came to dominate the consideration of this nomination, the issue of torture. The United States does not torture. The United States does not inflict cruel, inhuman, and degrading treatment. This is part of the moral fiber of our country and our historical place as a world leader on human rights, and it has long been fixed in our laws, our Constitution, and our values.

That is why I was so saddened when Judge Mukasey, given repeated opportunities, refused to say that the ancient and extreme technique of waterboarding, a brutal practice in which a person is subjected to simulated drowning, is illegal. There may be interrogation techniques that require close examination and extensive briefings. Waterboarding is not among them. Judge Mukasey does not need a

classified briefing to learn about waterboarding. He could go to the library to read about waterboarding that was done as far back as the Spanish Inquisition, or about American prosecutions of Japanese war criminals for waterboarding after World War II. Evan Wallach, a judge at the U.S. Court of International Trade, a professor who teaches the law of war, and a former JAG officer, wrote an insightful column in last Sunday's Washington Post that I ask unanimous consent be printed in the RECORD.

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

WATERBOARDING USED TO BE A CRIME

(By Evan Wallach)

As a JAG in the Nevada National Guard, I used to lecture the soldiers of the 72nd Military Police Company every year about their legal obligations when they guarded prisoners. I'd always conclude by saying, ''I know you won't remember everything I told you today, but just remember what your mom told you: Do unto others as you would have others do unto you.'' That's a pretty good standard for life and for the law, and even though I left the unit in 1995, I like to think that some of my teaching had carried over when the 72nd refused to participate in misconduct at Iraq's Abu Ghraib prison.

Sometimes, though, the questions we face about detainees and interrogation get more specific. One such set of questions relates to ''waterboarding.''

That term is used to describe several interrogation techniques. The victim may be immersed in water, have water forced into the nose and mouth, or have water poured onto material placed over the face so that the liquid is inhaled or swallowed. The media usually characterize the practice as ''simulated drowning.'' That's incorrect. To be effective, waterboarding is usually real drowning that simulates death. That is, the victim experiences the sensations of drowning: struggle, panic, breath-holding, swallowing, vomiting, taking water into the lungs and, eventually, the same feeling of not being able to breathe that one experiences after being punched in the gut. The main difference is that the drowning process is halted. According to those who have studied waterboarding's effects, it can cause severe psychological trauma, such as panic attacks, for years.

The United States knows quite a bit about waterboarding. The U.S. government—whether acting alone before domestic courts, commissions and courts-martial or as part of the world community—has not only condemned the use of water torture but has severely punished those who applied it.

After World War II, we convicted several Japanese soldiers for waterboarding American and Allied prisoners of war. At the trial of his captors, then-Lt. Chase J. Nielsen, one of the 1942 Army Air Forces officers who flew in the Doolittle Raid and was captured by the Japanese, testified: ''I was given several types of torture. . . . I was given what they call the water cure.'' He was asked what he felt when the Japanese soldiers poured the water. ''Well, I felt more or less like I was drowning,'' he replied, ''just gasping between life and death.''

Nielsen's experience was not unique. Nor was the prosecution of his captors. After Japan surrendered, the United States organized and participated in the International Military Tribunal for the Far East, generally called the Tokyo War Crimes Trials. Leading members of Japan's military and government elite were charged, among their many other crimes, with torturing Allied military personnel and civilians. The principal proof upon which their torture convictions were based was conduct that we would now call waterboarding.

In this case from the tribunal's records, the victim was a prisoner in the Japanese-occupied Dutch East Indies:

A towel was fixed under the chin and down over the face. Then many buckets of water were poured into the towel so that the water gradually reached the mouth and rising further eventually also the nostrils, which resulted in his becoming unconscious and collapsing like a person drowned. This procedure was sometimes repeated 5–6 times in succession.

The United States (like Britain, Australia and other Allies) pursued lower-ranking Japanese war criminals in trials before their own tribunals. As a general rule, the testimony was similar to Nielsen's. Consider this account from a Filipino waterboarding victim:

Q: Was it painful?

A: Not so painful, but one becomes unconscious. Like drowning in the water.

Q: Like you were drowning?

A: Drowning —you could hardly breathe.

Here's the testimony of two Americans imprisoned by the Japanese: They would lash me to a stretcher then prop me up against a table with my head down. They would then pour about two gallons of water from a pitcher into my nose and mouth until I lost consciousness. And from the second prisoner: They laid me out on a stretcher and strapped me on. The stretcher was then stood on end with my head almost touching the floor and my feet in the air. . . . They then began pouring water over my face and at times it was almost impossible for me to breathe without sucking in water.

As a result of such accounts, a number of Japanese prison-camp officers and guards were convicted of torture that clearly violated the laws of war. They were not the only defendants convicted in such cases. As far back as the U.S. occupation of the Philippines after the 1898 Spanish-American War, U.S. soldiers were court-martialed for using the ''water cure'' to question Filipino guerrillas.

More recently, waterboarding cases have appeared in U.S. district courts. One was a civil action brought by several Filipinos seeking damages against the estate of former Philippine president Ferdinand Marcos. The plaintiffs claimed they had been subjected to torture, including water torture. The court awarded $766 million in damages, noting in its findings that ''the plaintiffs experienced human rights violations including, but not limited to . . . the water cure, where a cloth was placed over the detainee's mouth and nose, and water producing a drowning sensation.''

In 1983, federal prosecutors charged a Texas sheriff and three of his deputies with violating prisoners' civil rights by forcing confessions. The complaint alleged that the officers conspired to ''subject prisoners to a suffocating water torture ordeal in order to coerce confessions. This generally included the placement of a towel over the nose and mouth of the prisoner and the pouring of water in the towel until the prisoner began to move, jerk, or otherwise indicate that he was suffocating and/or drowning.''

The four defendants were convicted, and the sheriff was sentenced to 10 years in prison.

We know that U.S. military tribunals and U.S. judges have examined certain types of water-based interrogation and found that they constituted torture. That's a lesson worth learning. The study of law is, after all, largely the study of history. The law of war is no different. This history should be of value to those who seek to understand what the law is—as well as what it ought to be.

Mr. LEAHY. More than 100 years ago, in 1901 and 1902, U.S. military commissions charged American officers with waterboarding detainees in the Philippines, and President Theodore Roosevelt wrote:

Great as the provocation has been in dealing with foes who habitually resort to treachery, murder and torture against our men, nothing can justify the use of torture or inhuman conduct of any kind on the part of the American Army.

This country's abhorrence for cruel treatment of detainees goes back further still to General George Washington who wrote of captured troops during the Revolutionary War:

Treat them with humanity, and let them have no reason to complain of our copying the brutal example of the British Army in their treatment of our unfortunate brethren.

Those are American standards and American values that should not be compromised.

As RADM John Hutson, former Judge Advocate General of the Navy, testified to the Judiciary Committee:

Other than perhaps the rack and thumbscrews, water-boarding is the most iconic example of torture in history. It has been repudiated for centuries. It's a little disconcerting to hear now that we're not quite sure where water-boarding fits in the scheme of things. I think we have to be very sure where it fits in the scheme of things.

Judge Mukasey acknowledged that, in evaluating interrogation techniques, we look to standards such as whether the conduct ''shocks the conscience,'' whether it is ''outrageous,'' or whether it is ''for the purpose of humiliating and degrading the detainee.'' He was unwilling, though, to say that waterboarding meets these standards. To me, it is not a hard call that waterboarding shocks the conscience, that it is outrageous, that it humiliates and degrades detainees. I do not believe that the question whether waterboarding is illegal is subject to a balancing test. It is. Indeed, it is that kind of ''balancing test'' that has allowed this President to claim the discretion to commit so many abuses that have brought such disgrace on this great country.

Senator MCCAIN, who knows too much about the issue of torture, said recently:

Anyone who knows what waterboarding is could not be unsure. It is a horrible torture technique used by Pol Pot and being used on Buddhist monks as we speak. People who have worn the uniform and had the experience know that this is a terrible and odious practice and should never be condoned in the U.S. We are a better nation than that.

I agree.

Nothing is more fundamental to our constitutional democracy than our basic notion that no one is above the law. This administration has undercut that precept time after time. They are now trying to do it again, with an issue as fundamental as whether the United States of America will join the ranks

of those governments that approve of torture. That is why I will vote no on the President's nomination.

Mr. President, I reserve the remainder of my time.

The ACTING PRESIDENT pro tempore. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, before yielding 20 minutes to the distinguished Senator from California, I praise Senator FEINSTEIN for her work on the confirmation of Judge Mukasey. As is customary for Senator FEINSTEIN, she is present at all the hearings, at all the Judiciary Committee business, and comes to the meetings extraordinarily well prepared. I think she has a natural advantage, however, because she is not a lawyer.

It is a very difficult matter in this body to state the facts and to cross party lines, and to do so requires a number of factors. It requires a lot of confidence and judgment, and it requires a lot of courage to stand up as one of very few.

Her vote and Senator SCHUMER's vote were indispensable to move the nomination to the Senate floor. So she has 20 minutes.

Mrs. FEINSTEIN. I thank the ranking member of the Judiciary Committee.

Mr. President, shortly the Senate will vote on whether to confirm Michael Mukasey as the next Attorney General or whether to leave the Department of Justice without a real leader for the next 14 months.

I believe that is the issue. I will vote to confirm Judge Mukasey.

For me, the Department of Justice has always been the beacon of law enforcement and justice around the world. I have always truly believed we had a state-of-the-art system of justice that functioned independently of whoever happened to hold the White House or whoever was in the Congress. This beacon has been dimmed in the last 7 years, and I am one who finds the Department in disarray today.

I think the real issue before us today is: Can this nominee be a strong and independent leader of the Justice Department in the remaining time of this administration? Can he depoliticize the Department? Can he restore its morale? Will he be independent from the White House?

If your answer is yes, then I believe we should vote for him. If it is no, then you don't mind an Acting Attorney General for the next 14 months.

Ten of the most important positions in the Department today have no permanent person serving but are either acting or interim. Mr. President, 21 out of 93 U.S. Attorney positions are vacant, and only two nominees are pending before the Senate for confirmation.

Cases have been brought based on partisan considerations instead of the facts and the law. U.S. Attorneys who did not initiate partisan prosecutions were summarily fired. The Civil Rights Division has been weakened and politicized.

Judge Mukasey has shown he will be a strong and independent Attorney General.

He couldn't be any more different from Alberto Gonzales. Alberto Gonzales owed his political career, and his legal career to a great extent, to President Bush. Judge Mukasey does not. He has followed an independent path. And he has been, for 18 years, a Federal district court judge—yes, following the rule of law, not the rule of man. He has stood on his own, he has litigated on his own, he has judged on his own.

Judge Mukasey, in my view, is going to be a very different Attorney General. And it is hard for me to understand why everyone in this body doesn't come to the same conclusion just by judging his background against the background of the prior Attorney General. That is very hard for me to understand. Their backgrounds—their legal backgrounds, their service backgrounds—are so entirely different.

If you read the 178 pages of answers to questions that were submitted by Senators, some as many as 30, 35 questions, you see the independence of Judge Mukasey. In response to question 20 by Senator KENNEDY, Judge Mukasey said this:

> There can be no political litmus test for the hiring of career civil service employees. This is, and must be, a bedrock principle.

He added that he would have ''zero tolerance'' in this area.

Isn't that what we want?

On the issue of politically motivated prosecutions, which, as I have said, I believe there have been by this department, he said, in the transcript, dated 10/17/07, page 19:

> Partisan politics plays no part in either the bringing of charges or the timing of charges.

And in response to question 20(a) by Senator DURBIN he also said he would recommend the firing of any U.S. Attorney who brought or planned to bring a case for partisan gain.

Isn't that what we want?

With regard to election crime prosecutions, he wrote this:

> The closer to an election, the higher the standard that must be met for charges to be brought.

That was in response to question no. 18 from Senator KENNEDY.

In addition, Judge Mukasey made it clear he will work to fix the many problems that have arisen in the Department's Civil Rights Division. He wrote this to us:

> The Civil Rights Division occupies a crucial place in the Department precisely because it continues to carry out the work of the civil rights movement by enforcing the Nation's civil rights laws. I strongly support the mission of the Civil Rights Division and will ensure that it has the tools and resources it needs to fulfill its mandate.

This was in answer to a question submitted by Senator LEAHY.

I think these answers alone show it is not going to be business as usual in the Department of Justice.

Isn't that what we want?

Now, the President has said publicly he will not send another nominee to the Senate. So what does that mean? It means if we don't confirm this nominee, we will effectively have an Acting Attorney General for the remaining 14 months of this President's tenure.

And what does that mean? It could likely mean that Peter Keisler, who has been an architect of Bush administration policies at DOJ for more than 5 years, will remain as Acting Attorney General for the rest of this administration.

Is that what we want?

It means most likely there will be recess appointments this winter for the 10 major leadership positions in the Department.

And what does that mean? Simply stated: The administration could put in place the most egregious and political leadership, and we—the Senate—could do nothing about it. We would have reduced transparency and reduced congressional oversight.

Now this is the realpolitik. This is the likelihood, should Judge Mukasey fail confirmation.

I believe it is the fundamental and driving factor for confirmation of this nominee. Not to confirm him will leave this vital department open to a continuation of egregious past actions, and we have railed against those past actions for years now. We have a chance to make a change.

We don't select the nominee, the President selects the nominee.

Does he have failed character? No. Does he lack in experience? No. Does he have the temperament to be Attorney General? He has proven it with 18 years as a Federal judge.

Does he know one of the most important areas of the law—national security law? He has tried some of the major terrorist cases that have been tried in Article III courts in the United States of America, and defendants have gone to prison.

Now, I have seen people pound their breasts here on torture. And none of us want torture.

There is a difference between U.S. law and treaty law. We have passed certain U.S. laws. We have passed a Military Commissions Act. That is a law of the United States of America. We have passed the Detainee Treatment Act. That is a law of the United States of America. The Detainee Treatment Act prohibits waterboarding for any military personnel anywhere in the world.

So, to the opponents of this nomination: We have passed a law. They say it is not necessary to pass a law, but in fact we have passed a law prohibiting waterboarding. And Judge Mukasey has said the Detainee Treatment Act is binding on the President and binding on this country.

The one exception is, there is no U.S. law that deals with the CIA. That is the exception. There are prestigious human rights groups that say it

doesn't matter; the Geneva Conventions and the Conventions Against Torture prevail. The President is saying I have Article II authority, and AUMF authority, and my view of Presidential power.

So what will solve it? A constitutional confrontation? The Supreme Court? What solves it?

My belief is, it is so easy: Instead of pounding our chests, simply do what we did in the Detainee Treatment Act, but do it for the CIA and prohibit waterboarding. End of debate.

Some people want to keep the issue alive rather than solve the problem. I am not one of those people. I believe we should end the ambiguity, and simply prohibit waterboarding across the board.

I do not believe Judge Mukasey should be denied confirmation for failing to provide an absolute answer on this one subject.

Nobody should think anything else is happening tonight. He would be denied confirmation because he said, I would like an opportunity to look at these laws, to look at these treaties, to read the legal opinions that have been written, and then have time to make up my mind.

Maybe we will want people to snap to and issue immediate judgments. This man has been a judge for 18 years. Maybe he likes to consider the facts before he makes a decision. I don't think that should be disqualifying.

We can bring him before the Judiciary Committee in late January and simply say: Judge Mukasey, now-Attorney General Mukasey, you have had an opportunity to look at the law. What is your opinion?

At the same time, I can say to you quite honestly, I believe waterboarding is illegal. I don't think it should be countenanced by the United States of America. I am not a lawyer, and I have not been for 18 years—or even 1 year—a Federal judge.

I believe waterboarding is prohibited under the Convention Against Torture and the Geneva Conventions. But it is not prohibited by name. It is prohibited in terms of its effects. There is a certain grayness for some—for some.

The opponents of this nomination have not given us any reason to think an acting or interim Attorney General would give us a better answer about waterboarding.

As a matter of fact, I would hazard a guess they would not. I would hazard a guess that if this nominee goes down, the exact same policies that have characterized the last 7 years will continue for the next 14 months. Am I being too abrupt to suggest we are missing something, that we should not get overwhelmed by the pounding of the chest against torture—that this is our chance for change?

If Judge Mukasey were not a respected judge, if he didn't have the legal background, if he didn't have the streak of independence—and read 178 pages of questions and answers and you will see that streak of independence—I would tend to agree with some of what has been said here. But I do not, because I seriously believe this is the only chance this Senate is going to be offered to put new leadership in the Department of Justice.

If, in fact, you believe it is in disarray, then there is only one action to take. If you believe it has been politicized, there is only one action to take.

The former Attorney General has not been independent, and he said he wore two hats—one serving the White House and one serving the people. If you believe there is only one hat an Attorney General can wear, and that is serving the people, then you have no choice other than Judge Mukasey. That is because otherwise, there will be an Acting Attorney General, not subject to confirmation, not subject to questioning, not subject to any kind of oversight—but, again, an arm of the White House.

Most of the major newspapers in my State have editorialized in favor of Judge Mukasey. This is what the San Diego Union-Tribune had to say about him:

> Torture is antithetical to American values. President Bush ought to issue an Executive order explicitly outlawing waterboarding. That said, Mukasey is not to blame for the Bush administration's interrogation policies. In his confirmation hearings, he has demonstrated a firm commitment to defend the Constitution. He merits confirmation by the Senate.

They got it.

The Detroit Free Press had this to say:

> As Attorney General, Mukasey can be expected to fight hard for what's legal rather than what's expedient.

Don't we want that?

> At least that's a step toward restoring the rule of law in the last 14 months of the Bush administration. The full Senate should confirm Mukasey, lest the president's next pick be someone with a more malleable sense of right and wrong.

Then, a paper from my State, The Sacramento Bee, got it right:

> As a replacement for Alberto Gonzales, Michael Mukasey, the nominee for U.S. attorney general, would bring a restorative independence of mind to the job. . . . Mukasey appears likely to operate in the open and with a higher respect for the system of the U.S. Government than for personal ties.

A critical question.

> We would expect him to urge the president to work with Congress. The Senate should confirm Mukasey to begin the cleanup at Justice.

This is the only chance we have. It is not as if we can turn him down and the administration is going to send us another nominee. They have already said they will not.

I do not believe that voting down this nominee will do even a bit of good in preventing torture. No one has explained why more of the same at the Justice Department would be better than putting Judge Mukasey in charge.

I do believe he will be a truly nonpolitical, nonpartisan Attorney General; that he will make his views very clear; and that, once he has the opportunity to do the evaluation he believes he needs on waterboarding, he will be willing to come before the Judiciary Committee and express his views comprehensively and definitively.

In conclusion, this nominee had no part in the administration's policies or legal opinions with respect to torture. We should not blame him for them. How can this man be the standard-bearer for torture? He is not. Why is he being treated as such?

We should give this nominee an opportunity to look at these treaties, look at the laws, read the opinions, and we should do what we are here to do—legislate and prohibit waterboarding across the board.

I thank the ranking member.

I yield the floor.

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

Mr. MENENDEZ. Mr. President, I ask unanimous consent I control the time allocated to Senator REED of Rhode Island, who has indicated he will not be using that time.

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

Mr. MENENDEZ. Mr. President, I further ask unanimous consent that the next Democratic speakers be the following: Senators CARDIN, BOXER, KENNEDY, SALAZAR and SANDERS but not necessarily in that order.

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

The Senator from Pennsylvania is recognized.

Mr. SPECTER. Mr. President, would the sequence permit alternating between those four against Judge Mukasey?

Mr. MENENDEZ. It would.

The ACTING PRESIDENT pro tempore. The order would so provide.

Mr. SPECTER. So provided, for alternation?

The ACTING PRESIDENT pro tempore. For alternation.

Mr. SPECTER. I thank the Chair, thank the Senator from New Jersey, and pardon the interruption.

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

Mr. MENENDEZ. Mr. President, how much time do I have?

The ACTING PRESIDENT pro tempore. Fifteen minutes.

Mr. MENENDEZ. Mr. President, I rise today to express my opposition to the nomination of Judge Michael Mukasey to be the next Attorney General for the United States. This has not been an easy decision for me to make.

I met Judge Mukasey before the judiciary hearings and liked him immensely on a personal level. We discussed the unprecedented and extremely harmful politicization that that has occurred within the Justice Department since the beginning of the

Bush administration. I was encouraged by the steps he said he would take to reverse it. We talked about the problems of leaking secret grand jury information, and I was impressed by his commitment to investigate any allegations of grand jury leaks and to terminate any responsible prosecutors.

In fact, after my meeting, I thought that I could comfortably vote to confirm Judge Mukasey as our next Attorney General. But, then came the judiciary hearings.

On the second day of the hearings, Judge Mukasey was specifically asked whether waterboarding was illegal. Now, before I get to Judge Mukasey's answer, let me describe what waterboarding is. And, let me make clear that my description contains no classified information—nothing that Judge Mukasey would need special security clearance to know.

The term waterboarding can be used to describe several different interrogation techniques. In one, the victim is immersed in water. In another, water is forced into the victim's nose and mouth. In the third, water is poured onto material—like cellophane—that is placed over the victim's face so that the victim inhales and swallows the water.

Regardless of which technique is used, the victim experiences the sensations of drowning: they struggle, they panic, they hold their breath. They inhale water into their lungs—they vomit and sometimes black out. This is not simulated drowning. It is simulated death. The drowning is real.

Despite this public knowledge of what constitutes waterboarding, Judge Mukasey refused to say whether waterboarding was illegal. According to the judge ''hypotheticals are different from real life.'' Therefore whether waterboarding was illegal would depend on ''the actual facts and circumstances''—things he did not know I have a hard time understanding what facts and circumstances could make the procedures I just described legal. I have a hard time understanding what facts and circumstances could make them somehow not cruel and inhumane. The only thing I don't have a hard time understanding is why Judge Mukasey's evasive and non-committal comments sound so familiar.

We have heard them before and all too often. Time and time again, other members of the Bush administration have played word games to justify their use of illegal or inappropriate interrogation techniques.

Judge Mukasey tried to backpedal by saying that he found waterboarding personally repugnant. Well, as many of us know, whether someone finds a law personally repugnant often has no impact on whether that person will enforce the law. Whether they find an action personally repugnant often has no impact on whether they will prosecute that action.

Judge Mukasey also said he would uphold any law that Congress passes in the future outlawing waterboarding. I am not sure how reassuring this statement is, since waterboarding is already illegal in the United States. Why should Congress have to pass a law prohibiting something that is already illegal?

Judge Mukasey should be well aware that waterboarding is illegal. On October 31, Senators MCCAIN, GRAHAM, and WARNER—all experts in the area of interrogation and military justice—wrote a letter to Judge Mukasey stating, without a shadow of a doubt that ''waterboarding, under any circumstances, represents a clear violation of U.S. law.'' And my colleagues should know this. They authored the 2005 prohibition on cruel, inhuman, and degrading treatment that the President signed into law. During the debate, they made it very clear that the so-called ''McCain amendment'' prohibits waterboarding or other extreme techniques that ''shock the conscience.''

I ask unanimous consent that a letter concerning waterboarding from Senators MCCAIN, WARNER and GRAHAM and letters of opposition and concern from the American-Arab Anti-Discrimination Committee and the American Psychological Association be printed in the RECORD.

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

(See Exhibit 1.)

Mr. MENENDEZ. Knowing what we know about waterboarding, there is no way anyone can argue that it does not shock the conscience.

The McCain amendment is not the only provision of U.S. law prohibiting waterboarding. The 2006 Military Commissions Act clearly prohibits the practice. It enumerates the grave breaches of common article III of the Geneva Conventions that constitute offenses under the War Crimes Act. And, it explicitly prohibits acts that inflict ''serious and nontransitory mental harm.'' As my colleagues stated so clearly in their letter ''Staging a mock execution by inducing the misperception of drowning is a clear violation of this standard.''

In fact, the U.S. has successfully prosecuted individuals who have engaged in waterboarding. After World War II, U.S. Military Commissions accused and successfully convicted Japanese soldiers for torturing American prisoners through the use of waterboarding. How can we stand here over 60 years later and confirm an individual to be our country's highest ranking law enforcement official if he will not enforce laws we have already prosecuted?

There is no reason to believe that waterboarding is anything but illegal. There is no compelling argument that it could ever be consistent with U.S. law. There is no ambiguity here. No shades of gray. It is clear to me that water boarding is illegal. It is clear to my colleagues Senators MCCAIN, GRAHAM, and WARNER that waterboarding violates U.S. law. The only person that it is not clear to is Judge Mukasey.

I have spent some time trying to understand why Judge Mukasey refused to confirm something that is so clear under our laws. The only thing I can come up with is that his statement is consistent with the current Bush administration policy. It protects administration officials who have admitted waterboarding occurred on their watch, and it tacitly permits President Bush to continue utilizing waterboarding as an interrogation technique.

It strikes me as more than a little coincidental that on his first day of testimony before the Judiciary Committee, Judge Mukasey was not afraid to depart with administration policy and assert his independence. Yet on the second day of testimony, he all of a sudden began to play the role of loyal footsoldier.

One has to wonder whether this change of heart occurred under pressure from the administration. If nothing else, it certainly makes me wonder whether Judge Mukasey will be as independent of a thinker and an actor as he led us all to believe he would be.

I hope that I am wrong about Judge Mukasey. This is a critical point in history for the Justice Department. Since the beginning of the Bush administration, we have seen the influence of political appointees expand exponentially. We have seen good, qualified, dedicated prosecutors fired and replaced by Bush loyalists. We have seen the number of civil rights prosecutions drop, and we have seen clearly discriminatory voter I.D. laws approved by partisan political appointees over the objections of experienced career employees.

The Justice Department clearly needs new leadership. It needs to be cleaned up. It needs someone who will not only stop the continuing politicalization but reverse the effects of what has already happened.

If confirmed, I hope that Judge Mukasey will be that kind of leader. I hope that he will exhibit the independence and honesty that he said he would when I met with him. I hope he is as committed to upholding the laws of the United States as Attorney General as he appeared to be as a United States Judge. I hope that his statements on waterboarding are an exception to, not an indication of, the role he will play as Attorney General.

But, I cannot vote on hope alone. I have to vote on facts. And, given the facts available, I simply cannot support Judge Mukasey's nomination.

EXHIBIT 1

U.S. SENATE,
COMMITTEE ON ARMED SERVICES,
Washington, DC, October 31, 2007.

Hon. MICHAEL B. MUKASEY,
Patterson Belknap Webb & Tyler LLP,
New York, NY.

DEAR JUDGE MUKASEY: We welcome your acknowledgement in yesterday's letter that the interrogation technique known as waterboarding is ''over the line'' and ''repugnant,'' and we appreciate your recognition

that Congress possesses the authority to ban interrogation techniques. These are important statements, and we expect that they will inform your views as Attorney General. We also expect that, in that role, you will not permit the use of such a practice by any agency of the United States Government.

You have declined to comment specifically on the legality of waterboarding, deeming it a hypothetical scenario about which it would be imprudent to opine. Should you be confirmed, however, you will soon be required to make determinations regarding the legality of interrogation techniques that are anything but hypothetical. Should this technique come before you for review, we urge that you take that opportunity to declare waterboarding illegal.

Waterboarding, under any circumstances, represents a clear violation of U.S. law. In 2005, the President signed into law a prohibition on cruel, inhuman, and degrading treatment as those terms are understood under the standards of the U.S. Constitution. There was at that time a debate over the way in which the Administration was likely to interpret these prohibitions. We stated then our strong belief that a fair reading of the ''McCain Amendment'' outlaws waterboarding and other extreme techniques. It is, or should be, beyond dispute that waterboarding ''shocks the conscience.''

It is also incontestable that waterboarding is outlawed by the 2006 Military Commissions Act (MCA), and it was the clear intent of Congress to prohibit the practice. As the authors of the statute, we would note that the MCA enumerates grave breaches of Common Article 3 of the Geneva Conventions that constitute offenses under the War Crimes Act. Among these is an explicit prohibition on acts that inflict ''serious and nontransitory mental harm,'' which the MCA states (but your letter omits) ''need not be prolonged.'' Staging a mock execution by inducing the misperception of drowning is a clear violation of this standard. Indeed, during the negotiations, we were personally assured by Administration officials that this language, which applies to all agencies of the U.S. Government, prohibited waterboarding.

We share your revulsion at the use of waterboarding and welcome your commitment to review existing legal memoranda covering interrogations and their consistency with current law. It is vital that you do so, as anyone who engages in this practice, on behalf of any U.S. government agency, puts himself at risk of criminal prosecution, including under the War Crimes Act, and opens himself to civil liability as well.

We must wage and win the war on terror, but doing so is fully compatible with fidelity to our laws and deepest values. Once you are confirmed and fully briefed on the relevant programs and legal analyses, we urge you to publicly make clear that waterboarding can never be employed.

Sincerely,

JOHN MCCAIN,
United States Senator.
LINDSEY GRAHAM,
United States Senator.
JOHN WARNER,
United States Senator.

AMERICAN-ARAB
ANTI-DISCRIMINATION COMMITTEE,
Washington, DC, November 1, 2007.

Hon. PATRICK LEAHY,
Chairman, Senate Committee on the Judiciary, Washington, DC.

DEAR CHAIRMAN LEAHY: On November 5, as the Senate Committee on the Judiciary convenes a nomination hearing for Attorney General Nominee Judge Michael Mukasey, the American-Arab Anti-Discrimination Committee (ADC), the nations premier organization dedicated ensuring the civil rights of Arab Americans, would like to express its opposition to Judge Mukasey's confirmation.

Judge Mukasey has disappointed our national expectations and failed our patriotic legacy as champions of democracy, human rights, and due process. He refused to name the practice of waterboarding as torture, has cast doubts as to whether non-citizens in U.S. custody should enjoy the protection of the U.S. Constitution, and has advocated for the creation of separate national security courts, casting doubt on our time-proven judiciary system.

It should be noted that all four currently serving Judge Advocates General for our armed forces are on record in qualifying waterboarding as torture and constituting a war crime. The Attorney General is the nation's chief law enforcement officer and is tasked with the application of the rule of law. The Attorney General must be able to maintain the delicate balance between national security and individual liberties and rights. Judge Mukasey's hesitancy on these vital matters, his doubts as to whether the U.S. Constitution, our supreme law of the land, applies to non-citizens, foreshadow a possible unwillingness on his part to enforce the role of law, including that of our Constitution and international legal standards; standards that our nation has championed for decades.

It is time for President Bush to nominate an attorney general who stands up for the values that have defined our nation; Judge Mukasey is not such a nominee. As our nation's largest non-profit organization dedicated since 1980 to defending the civil rights of Americans of Arab descent, we ask that you stand up as a patriot and a leader in defense of our national values and oppose Judge Mukasey's confirmation as the next attorney general.

Thank you for your consideration of this matter. Should you or your staff have any questions concerning this matter or ADC's work with the U.S. Department of Justice please do not hesitate to contact ADC Legislative Director Christine Gleichert at Christine@adc.org or (202) 244–2990.

Very truly yours,

KAREEM W. SHORA, JD, LLM,
National Executive Director.

AMERICAN PSYCHOLOGICAL
ASSOCIATION,
Washington, DC, November 1, 2007.

Hon. PATRICK J. LEAHY,
Chairman, Senate Judiciary Committee, Washington, DC.

Hon. ARLEN SPECTER
Ranking Member, Senate Judiciary Committee, Washington, DC.

DEAR CHAIRMAN LEAHY AND RANKING MEMBER SPECTER: We are writing on behalf of the American Psychological Association (APA), the world's largest scientific and professional organization of psychologists, to commend and support your ongoing efforts related to the confirmation hearing and follow-up correspondence to Attorney General nominee Michael B. Mukasey. We highly value your commitment to ensure that the next U.S. Attomey General is dedicated to safeguarding the physical and psychological welfare and human rights of individuals incarcerated by the U.S. government in foreign detention centers. We are all too aware of reports of a 2002 memorandum by then Assistant U.S. Attorney General Jay Bybee that granted power to the President to issue orders in violation of the Geneva Conventions and international laws that prohibit torture and cruel, inhuman, or degrading treatment. (Fortunately, this memorandum has since been disavowed by President Bush and overridden by his Executive Order in July of this year.)

In a separate letter to President Bush, we urged him to regard the ongoing Senate confirmation process involving his Attorney General nominee as a timely opportunity to expand his recent Executive Order to clarify that ''enhanced'' interrogation techniques, such as forced nudity, waterboarding, and mock executions, which are defined as torture or cruel, inhuman, or degrading treatment by the Geneva Conventions and the United Nations Convention Against Torture, shall not be used or condoned by the U.S. government. We also urged the government to disallow any testimony resulting from the use of these techniques.

APA unequivocally condemns the use of torture and cruel inhuman, or degrading treatment or punishment under any and all conditions, including the detention and interrogation of both lawful and unlawful ''enemy combatants,'' as defined by the U.S. Military Commissions Act of 2006 (see attached August 2007 resolution). Accordingly, we also urge the Congress and the Bush administration to establish policies and procedures to ensure the judicial review of these detentions, which in some instances have gone on for years without any determination of their legality.

Psychologists consulting to the military and intelligence communities, like their colleagues in domestic forensic settings, use their expertise to promote the use of ethical, effective, and rapport-building interrogations, while safeguarding the welfare of interrogators and detainees. It is always unethical for a psychologist to plan, design, or assist, either directly or indirectly, in interrogation techniques delineated in APA's 2007 resolution and any other techniques defined as torture or cruel, inhuman, or degrading treatment or punihment under the Geneva Conventions, the United Nations Convention Against Torture, and APA's 2006 Resolution Against Torture.

There are no exceptional circumstances whatsoever to these prohibitions, whether induced by a state of war, threat of war, or any other public emergency, or in the face of laws, regulations, or orders. APA will support psychologists who refuse to work in settings in which the human rights of detainees are not protected. Moreover, psychologists with knowledge of the use of any prohibited interrogation technique have an ethical responsibility to inform their superiors and the relevant office of inspectors general, as appropriate, and to cooperate fully with all government oversight activities to ensure that no individual is subjected to this type of treatment.

We look forward to working with the Senate Judiciary Committee to develop policies on interrogation that provide for ethical and effective means to elicit information to prevent acts of violence. Our own work in this area is ongoing, and we plan to make available a casebook and commentary (upon completion) to provide guidance on the interpretation of our resolution. If you have any questions or are in need of additional information, please contact APA's Director of Ethics, Stephen Behnke, J.D., Ph.D., at (202) 336–6006 or at sbehnke@apa.org, or our Senior Policy Advisor, Ellen Garrison, Ph.D., at (202) 336–6066 or egarrison@apa.org.

Sincerely,

SHARON STEPHENS BREHM, PH.D,
President.
NORMAN B. ANDERSON, PH.D.,
Chief Executive Officer.

Attachment

REAFFIRMATION OF THE AMERICAN PSYCHOLOGICAL ASSOCIATION POSITION AGAINST TORTURE AND OTHER CRUEL, INHUMAN, OR DEGRADING TREATMENT OR PUNISHMENT AND ITS APPLICATION TO INDIVIDUALS DEFINED IN THE UNITED STATES CODE AS ''ENEMY COMBATANTS''

Whereas the mission of the American Psychological Association is to advance psychology as a science and profession and as a means of promoting health, education and human welfare through the establishment and maintenance of the highest standards of professional ethics and conduct of the members of the Association;

Whereas the American Psychological Association is an accredited non-governmental organization at the United Nations and so is committed to promote and protect human rights in accordance with the United Nations Charter and the Universal Declaration of Human Rights;

Whereas the American Psychological Association passed the 2006 Resolution Against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, a comprehensive and foundational position applicable to all individuals, in all settings and in all contexts without exception;

Whereas in 2006, the American Psychological Association defined torture in accordance with Article 1 of the United Nations Declaration and Convention Against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment,

[T]he term ''torture'' means any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted upon a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official [e.g., governmental, religious, political, organizational] capacity. It does not include pain or suffering arising only from, inherent in, or incidental to lawful sanctions [in accordance with both domestic and international law];

Whereas in 2006, the American Psychological Association defined the term ''cruel, inhuman, or degrading treatment or punishment'' to mean treatment or punishment by a psychologist that, in accordance with the McCain Amendment, is of a kind that would be ''prohibited by the Fifth, Eighth, and Fourteenth Amendments to the Constitution of the United States, as defined in the United States Reservations, Declarations and Understandings to the United Nations Convention Against Torture and Other Forms of Cruel, Inhuman or Degrading Treatment or Punishment done at New York, December 10, 1984.'' Specifica1ly, United States Reservation I.1 of the Reservations, Declarations and Understandings to the United Nations Convention Against Torture stating, ''the term 'cruel, inhuman or degrading treatment or punishment' means the cruel, unusual and inhumane treatment or punishment prohibited by the Fifth, Eighth, and/or Fourteenth Amendments to the Constitution of the United States.'' [ii]

Be it resolved that the American Psychological Association reaffirms unequivocally the 2006 Resolution Against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment in its entirety in both substance and content (see Appendix A);

Be it resolved that the American Psychological Association affirms that there are no exceptional circumstances whatsoever, whether induced by a state of war or threat of war, internal political instability or any other public emergency, that may be invoked as a justification for torture or cruel, inhuman, or degrading treatment or punishment, including the invocation of laws, regulations, or orders;

Be it resolved that the American Psychological Association unequivocally condemns torture and cruel, inhuman, or degrading treatment or punishment, under any and all conditions, including detention and interrogations of both lawful and unlawful enemy combatants as defined by the U.S. Military Commissions Act of 2006;

Be it resolved that the unequivocal condemnation includes an absolute prohibition against psychologists' knowingly planning, designing, and assisting in the use of torture and any form of cruel, inhuman or degrading treatment or punishment;

Be it resolved that this unequivocal condemnation includes all techniques defined as torture or cruel, inhuman or degrading treatment under the 2006 Resolution Against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment, the United Nations Convention Against Torture, and the Geneva Convention. This unequivocal condemnation includes, but is by no means limited to, an absolute prohibition for psychologists against direct or indirect participation in interrogations or in any other detainee-related operations in mock executions, water-boarding or any other form of simulated drowning or suffocation, sexual humiliation, rape, cultural or religious humiliation, exploitation of phobias or psychopathology, induced hypothermia, the use of psychotropic drugs or mind-altering substances used for the purpose of eliciting information; as well as the following used for the purposes of eliciting information in an interrogation process: hooding, forced nakedness, stress positions, the use of dogs to threaten or intimidate, physical assault including slapping or shaking, exposure to extreme heat or cold, threats of harm or death; and isolation, sensory deprivation and overstimulation and/or sleep deprivation used in a manner that represents significant pain or suffering or in a manner that a reasonable person would judge to cause lasting harm; or the threatened use of any of the above techniques to the individual or to menbers of the individual's family;

Be it resolved that the American Psychological Association calls on the United States government—including Congress, the Department of Defense, and the Central Intelligence Agency—to prohibit the use of these methods in all interrogations and that the American Psychological Association shall inform relevant parties with the United States government that psychologists are prohibited from participating in such methods;

Be it resolved that the American Psychological Association, in recognizing that torture and other cruel, inhuman or degrading treatment and punishment can result not only from the behavior of individuals, but also from the conditions of confinement, expresses grave concern over settings in which detainees are deprived of adequate protection of their human rights, affirms the prerogative of psychologists to refuse to work in such settings, and will explore ways to support psychologists who refuse to work in such settings or who refuse to obey orders that constitute torture;

Be it resolved that the American Psychological Association asserts that any APA member with knowledge that a psychologist, whether an APA member or non-member, has engaged in torture or cruel, inhuman, or degrading treatment or punishment, including the specific behaviors listed above, has an ethical responsibility to abide by Ethical Standard 1.05, Reporting Ethical Violations, in the Ethical Principles of Psychologists and Code of Conduct (2002) and directs the Ethics Committee to take appropriate action based upon such information, and encourages psychologists who are not APA members also to adhere to Ethical Standard 1.05;

Be it resolved that the American Psychological Association commends those psychologists who have taken clear and unequivocal stands against torture and cruel, inhuman or degrading treatment or punishment, especially in the line of duty, and including stands against the specific behaviors (in lines 81 through 100) or conditions listed above; and that the American Psychological Association affirms the prerogative of psychologists under the Ethical Principles of Psychologists and Code of Conduct (2002) to disobey law, regulations or orders when they conflict with ethics;

Be it resolved that the American Psychological Association asserts that all psychologists with information relevant to the use of any method of interrogation constituting torture or cruel, inhuman, or degrading treatment or punishment have an ethical responsibility to inform their superiors of such knowledge, to inform the relevant office of inspectors general when appropriate, and to cooperate fully with all oversight activities, including hearings by the United States Congress and all branches of the United States government, to examine the perpetration of torture and cruel, inhuman, or degrading treatment or punishment against individuals in United States custody, for the purpose of ensuring that no individual in the custody of the United States is subjected to torture or cruel, inhuman, or degrading treatment or punishment;

Be it resolved that the APA Ethics Committee shall proceed forthwith in writing a casebook and commentary that shall set forth guidelines for psychologists that are consistent with international human rights instruments, as well as guidelines developed for health professionals, including but not limited to: Common Article 3 of the Geneva Conventions; The United Nations Convention Against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment; The United Nations Principles of Medical Ethics Relevant to the Role of Health Personnel, particularly Physicians, in the Protection of Prisoners and Detainees against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment; and The World Medical Association Declaration of Tokyo: Guidelines for Physicians Concerning Torture and other Cruel, Inhuman or Degrading Treatment or Punishment in Relation to Detention and Imprisonment;

BE IT RESOLVED that the American Psychological Association, in order to protect against torture and cruel, inhuman, or degrading treatment or punishment, and in order to mitigate against the likelihood that unreliable and/or inaccurate information is entered into legal proceedings, calls upon United States legal systems to reject testimony that results from torture or cruel, inhuman, or degrading treatment or punishment.

ENDNOTES

[i] Defined as both unlawful enemy combatants and lawful enemy combatants as set forth in the U.S. Military Commissions Act of 2006 (Chapter 47A; Subchapter I: §948a. Definitions)

''(1) Unlawful enemy combatant.—

(A) The term 'unlawful enemy combatant' means—

''(i) a person who has engaged in hostilities or who has purposefully and materially supported hostilities against the United States

or its co-belligerents who is not a lawful enemy combatant (including a person who is part of the Taliban, al Qaeda, or associated forces); or

''(ii) a person who, before, on, or after the date of the enactment of the Military Commissions Act of 2006, has been determined to be an unlawful enemy combatant by a Combatant Status Review Tribunal or another competent tribunal established under the authority of the President or the Secretary of Defense.

''(B) Co-belligerent.—In this paragraph, the term 'cobelligerent', with respect to the United States, means any State or armed force joining and directly engaged with the United States in hostilities or directly supporting hostilities against a common enemy.

''(2) Lawful enemy combatant.—The term 'lawful enemy combatant' means a person who is—

''(A) a member of the regular forces of a State party engaged in hostilities against the United States;

''(B) a member of a militia, volunteer corps, or organized resistance movement belonging to a State party engaged in such hostilities, which are under responsible command, wear a fixed distinctive sign recognizable at a distance, carry their arms openly, and abide by the law of war; or

''(C) a member of a regular armed force who professes allegiance to a government engaged in such hostilities, but not recognized by the United States.

''Article V.

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

Article VIII.

Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

Article XIV.

Section 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof; are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

Resolution Adopted by the Council of Representatives of the American Psychological Association on August 19, 2007.

The ACTING PRESIDENT pro tempore. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, I yield 10 minutes to the distinguished Senator from Alabama, Mr. SESSIONS.

Mr. SESSIONS. Mr. President, I believed we were moving toward a very harmonious vote on Judge Mukasey's confirmation. I have been disappointed that has not occurred.

Opponents have latched on to complaints about torture and a specific classified procedure that Judge Mukasey has never seen or studied in detail. Since he refused to express a legal opinion on that one specific technique, they have asserted that he supports torture, and many have decided to vote against him. I think that is unfair to the judge.

I will recall that Judge Mukasey was called to the attention of the President through Senator SCHUMER who has spoken highly of him and who voted for him in the committee, as did Senator FEINSTEIN, two Democratic colleagues. Senator SCHUMER apparently has known him and his reputation in New York for some time. The President attempted to reach out and to pick a nominee who appeared to be above politics, apart from politics, a person who had a history of competence and integrity.

Being a Federal judge is about as removed from the normal give and take of politics and compromise and wheeling and dealing as you can get. And he served in that position for many years but also had experience as an assistant U.S. attorney involved in leading a public corruption section in New York which was pretty sizable and important and dealt with a lot of important cases.

He was on the Law Review at Yale and has all of the kind of academics credentials and practical experience you would look for and is the kind of U.S. Attorney General I, and I think people of both parties can feel comfortable with. I really do believe that.

I was hopeful we would see a nominee such as Larry Thompson, a longtime friend of mine. He served as former Deputy Attorney General of the United States, a former U.S. attorney; Ted Olson, who served as Solicitor General; or former Attorney General Bill Barr. These are a few individuals who would be considered normal Republican appointees for this position and whose views are well known to be in accord with those of the President on most issues. But, instead, the President reached out and appointed someone who appeared to have strong bipartisan support.

I am sorry we have had some of these complaints because I think they distort the record and what the judge actually said in his testimony and are inaccurate in a number of different ways.

The issue of torture has been discussed in great detail. But in many ways it has not been handled with accuracy, and the issues have not been squarely addressed. They have been sort of sloughed over, and he has been accused of things, and others, including the President and former Attorney Generals and the military and other people have been accused of things in an inaccurate fashion.

I think I would like to make a few comments about how I see the legal situation that we find ourselves in and how things have developed. Prior to the Supreme Court's ruling in 2006 in Hamdan, a legitimate position, clearly, for the United States was that our personnel, when they were dealing with unlawful combatants, were bound by the torture statute, title 18, U.S. Code, Section 2340. That is the controlling statutory authority. It defined torture. It was passed overwhelmingly by Congress in 1994.

It was passed by a vote of 92 to 8. Every current member of the Senate Judiciary Committee who was here in the Senate in 1994 voted for it. Senator BIDEN, Senator FEINGOLD, Senator FEINSTEIN, Senator GRASSLEY, Senator HATCH, Senator KENNEDY, Senator KOHL, Senator LEAHY, and Senator SPECTER all voted for this act.

I asked Mr. Jack Goldsmith, former head of the Office of Legal Counsel in the Department of Justice under President Bush who resigned because he was not happy with some of the things that were being done, about the legal landscape regarding torture prior to the Hamdan decision—and he wrote a book about it.

I asked Mr. Goldsmith about the landscape prior to Hamdan—which found that the Common Article III of the Geneva Convention applied to enemy unlawful combatants detained at Guantanamo Bay. But that decision did not occur until the summer of 2006, so prior to that, pretty clearly, the authority that controlled the U.S. military in dealing with unlawful combatants, which we, I think, had every right to conclude were not covered by the Geneva Conventions, was the torture statute Congress passed in 1994. That is the statute that our military was compelled to comply with.

And so the statute on torture is pretty clear. The people who drafted it wanted to make sure that whether in the United States or out of the United States that persons in our custody ought not to be tortured.

That certainly is an honorable and appropriate goal, and they did that. They passed this statute in which they defined torture:

As used in this chapter (1) ''torture'' means an act committed by a person acting under the color of law specifically intended to inflict severe physical or mental pain or suffering (other than pain or suffering incidental to lawful sanctions) upon another person within his custody or physical control;

(2) ''severe mental pain or suffering'' means the prolonged mental harm caused by or resulting from—

(A) the intentional infliction or threatened infliction of severe physical pain or suffering.

And it goes on.

Playing music or segregating a prisoner or giving one prisoner less food or less quality food than you give another one, placing them in stressful conditions clearly does not qualify under this torture statute as inflicting severe physical or mental pain.

Our military had lawyers. As Mr. Goldsmith, who was a critic, really, of this administration's behavior, said in his testimony and in his book, they were awash with lawyers. They had lawyers all over the place. Everything was read by lawyers. He said the CIA had 100 lawyers. I don't know how many in the Department of Defense and others he made reference to were there trying to figure out how to conduct interrogations at a time when our

country had been attacked, 3,000 people had been killed, and we were trying to figure out if there were other cells in our country and other groups prepared to kill more Americans.

I remember when Senator John Ashcroft was nominated for Attorney General, and they were jumping on him about all of this and what should be done and what they had heard that somebody might have done. An exasperated then-Senator, Attorney General nominee Ashcroft responded to one question in frustration by saying: Well, the problem I have with you, Senator, is, it is not my definition of torture that counts, it is the one you enacted into law.

So that is what we enacted into law. If people are not happy with it—I think it is a legitimate statute, but if they are not happy with it, so be it. That is the one we passed into law. Our lawyers were telling our intelligence people and others who were apprehending terrorists who were committed to destroying America that they had to comply with this statute.

The ACTING PRESIDENT pro tempore. The time of the Senator has expired.

Mr. SESSIONS. I ask unanimous consent for 1 additional minute.

The ACTING PRESIDENT pro tempore. Does the Senator from Pennsylvania yield an additional minute to the Senator from Alabama?

Mr. SPECTER. What is the request pending?

Mr. SESSIONS. One additional minute.

Mr. SPECTER. Granted.

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

Mr. SESSIONS. There is another matter of some importance. A number of Senators have demanded that Judge Mukasey make express statements of law regarding the separation of powers, and they have asked him these questions as a condition of his confirmation. Several Senators alluded to private conversations in which they say Judge Mukasey stated that a President cannot act outside the parameters set by the legislative branch, I guess on most any matter. Particularly, I guess it dealt with FISA. I believe this contradicts the fundamental separation of powers set forth in the Constitution by our Founding Fathers. The oath the President takes is to faithfully execute the Office of the President and to preserve, protect, and defend the Constitution of the United States. That is written in the Constitution.

While the original FISA statute was being debated in 1978, then Carter administration Attorney General Judge Griffin Bell testified:

> The current bill recognizes no inherent power of the President to conduct electronic surveillance, and I want to interpolate here to say that this does not take away the power of the President under the Constitution.

I associate myself with the remarks of Griffin Bell and recognize that nothing we can do in this Congress can impede on the powers vested in the Executive by the Constitution. Congress cannot curtail the constitutional powers of the Executive by statutory law.

The ACTING PRESIDENT pro tempore. The time of the Senator has expired.

Mr. SPECTER. How much more time would the Senator like?

Mr. SESSIONS. One additional minute.

Mr. SPECTER. Granted.

Mr. SESSIONS. The purported conversations that Senators indicate they have had apparently took place in private settings and not in a confirmation hearing held by the Judiciary Committee where these statements could be made a part of the record or cross-examined or where the words could be recorded with any accuracy. These types of promises, though touted as justification for a vote, perhaps, are not legislative history and have not been made a part of the record of this nomination. They cannot be a part of a legislative history of any kind.

Furthermore, I would suggest that if Judge Mukasey did, in fact, say that in a categorical manner, which I really doubt, he would be in error. Any President has certain constitutional powers that cannot be taken away by statute.

I yield the floor.

Mr. SPECTER. Mr. President, how much time remains on each side?

The ACTING PRESIDENT pro tempore. The Senator from Pennsylvania has 1 hour 26 minutes; the Senator from Vermont has 1 hour 36 minutes.

The Senator from Maryland is recognized for 10 minutes.

Mr. CARDIN. Mr. President, I have the opportunity to serve on the Judiciary Committee, so I participated in the confirmation hearings on Judge Mukasey. I had a chance to personally meet with him. I had the chance to propound written questions and received written answers from him. Throughout this process, all of us have been looking for a person to be the next Attorney General who would be an Attorney General for the American people and not just the President of the United States.

I cannot accept Judge Mukasey's answer on waterboarding. As my colleagues have said, waterboarding is an interrogation technique that simulates death by drowning. The original question that was asked Judge Mukasey on the second day of the confirmation hearings asked specifically about waterboarding. He didn't really answer the question. I must tell you, I gave him the benefit of the doubt on that question. He indicated that he may not have been familiar with what waterboarding is. I found that difficult to believe, but okay. He would have a chance to reflect upon it, be able to look at the historical information on waterboarding, and we asked him a written question followup as to whether he would comment on the interrogation technique of waterboarding.

The question was asked. As waterboarding is generally known, it has been used for centuries. Judge Mukasey would not give us a direct answer as to whether waterboarding was torture and prohibited under U.S. law. Then we find out that Judge Mukasey says: Look, if Congress passes a statute that specifically outlaws waterboarding, I would enforce that statute. That is not necessary because waterboarding is already illegal. But that causes me some additional problems.

Let me talk a little bit about the various issues because to me it is more than just waterboarding. We are talking about torture and the U.S. position on torture and the U.S. leadership in advancing human rights as the leader of the free world. I believe that reputation has been damaged.

The United States historically has provided clarity and leadership on advancing human rights issues. There should be no doubt that waterboarding is torture and waterboarding is illegal. My colleagues have cited the torture statutes that have been passed by the Congress that make it clear that this kind of conduct would fall under the general definition of torture and is illegal in the United States.

It is internationally condemned under the Geneva Conventions article 3. Our Constitution prohibits torture, and waterboarding would fall under that. We prosecuted Japanese officials after World War II as war criminals because they waterboarded American soldiers.

We recently passed the McCain amendment that said that cruel, inhumane, and degrading treatment or punishment of persons under the detention, custody, or control of the United States would not be permitted. So there should be no doubt that waterboarding is torture and illegal.

Admiral Hutson, who testified before the committee on a panel of outside witnesses, told us a little bit more about the historical aspects of waterboarding. He is a former Judge Advocate General, former senior uniformed legal advisor to the Secretary of the Navy and the Chief of Naval Operations. He stated that waterboarding ''is the most iconic example of torture.'' It was devised during the Spanish Inquisition, and its use has been repudiated for centuries. This is not a new technique. It is well known. I don't believe we need to pass another statute. It is clear already.

I have heard my colleagues say: All we have to do is pass a statute. Does that mean we are going to have to pass a statute that outlaws all types of specific uses of torture such as mock execution or forced nudity or attack dogs or the use of rack or thumb screws? Are we going to have to outlaw those specific techniques because it is not clear under our statute of torture that is illegal today? I hope not. I hope it is clear that these techniques are torture, as is waterboarding, and it is illegal.

Admiral Hutson put it best when he said the Attorney General, as our chief

law enforcement officer, has to be absolutely unequivocal as to what is torture and what is not. On torture, I want the President of the United States and the Attorney General to be very clear to the international community that the United States will not tolerate torture being used by the United States, waterboarding being used by the United States or used against any American. We have to be clear about that.

I want our Government to use all resources at its disposal if a foreign agent attempts to torture an American, including waterboarding of an American. It has been said, but can you imagine the resolution that would be brought before this body if an American soldier was waterboarded by a foreign enemy, what we would be doing here, each one of us?

I have my concern because I want our country to be clear on this issue. I have the President of the United States, in a signing statement on the McCain amendment, saying: Well, maybe torture doesn't apply to me. Now I have an Attorney General nominee who tells us that he can't tell us with precision that waterboarding is illegal?

We do have international responsibilities. We are the leader of the free world. I am proud to represent this body in the Helsinki Commission as the chair, to speak up internationally on human rights issues. I find myself defending America. I am having a hard time on this issue as to where we stand on the issue of torture.

Judge Mukasey is not responsible—let me make it clear because some of my colleagues have intimated this—for the Bush administration's policies on torture or on techniques to interrogate. He is not responsible. He had nothing to do with it. But I do believe we need to make sure he will stand up to the Bush administration to challenge these tactics if they, in fact, are illegal. Judge Mukasey is a good person. He is an honorable man. But on the critical issue of whether he will stand up to the President and give independent advice as to what is torture and what is not, I have my doubts.

I will be voting against his confirmation.

I yield back the remainder of my time.

The ACTING PRESIDENT pro tempore. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, we have about 3 hours remaining of time, and I note Senators on the floor speaking in opposition to Judge Mukasey. So I would ask my colleagues who want to speak in favor to come to the floor so we can make some evaluation as to how much time we need, and perhaps some can be yielded back. We are not required to vote on Friday morning necessarily.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from California is recognized for 15 minutes.

Mrs. BOXER. Mr. President, thank you very much.

Mr. President, I rise to express my opposition to the nomination of Judge Michael Mukasey to be our next Attorney General. I thank Chairman LEAHY and his committee, including Senator SPECTER and members I see here, Senator KENNEDY, for working hard to examine the nominee's record and, frankly, for asking the tough questions, which I think gave us a real look into the mind and the heart of this man.

I have respect for Judge Mukasey's background, his dedication to public service, his reputation as a distinguished jurist, and as a good man. But when evaluating our Nation's chief law enforcement official, we must weigh far more than background and likability. Particularly now—particularly now—when we are following the disastrous tenure of Alberto Gonzales, particularly now, when we have lost so much more leadership in the world because of what is happening in Iraq, and, unfortunately, what has happened in Abu Ghraib, we need to look past likability and qualifications.

We must firmly believe our next Attorney General must always put his loyalty to the Constitution above his loyalty to the President. We have a President and a Vice President who have dangerously abused their Executive power and who have undermined the public trust. This is not a partisan opinion.

Listen to what John Dean, White House Counsel to President Richard Nixon, wrote:

> Not since Nixon left the White House have we had such greed over presidential power, and never before have we had such political paranoia. . . . History never exactly repeats itself, but it does some rather good imitations.

When an administration spies on its own citizens without a warrant, strips habeas corpus rights from those held by America, and fires its own U.S. attorneys for political reasons, that is a shocking abuse of Executive power.

When an administration thinks it can just ignore an entire coequal branch of Government, even using signing statements to reinterpret or disregard more than 750 laws that Congress has passed, that is a shocking abuse of Executive power.

When an administration silences its own officials, rewriting testimony, redacting testimony, shelving reports, refusing to let experts publicly speak the truth, that is a shocking abuse of Executive power.

I have seen this so many times with this administration. The latest time was with global warming experts whose truths the White House find ''inconvenient.'' And what did they do? They redacted testimony of the CDC Director, the Center for Disease Control Director, when we asked her to come before the Environment Committee of the Senate and tell us what would the health effects of unfettered global warming be. What would happen? The White House muzzled her by slashing her testimony. They gave all kinds of excuses as to why it was done. None of them were real.

Then, when I wrote to the President, and I said: Mr. President, we need to hear what Dr. Gerberding has to say about the impacts of global warming on the health of our people; Mr. Fielding, White House Counsel, wrote back: Oh, gee, we are not going to send you her original testimony you have asked for. Oh, no, that would be an abuse of executive privilege. Let me restate that: That would be an abuse of the separation of powers. And he asserted executive privilege. Imagine asserting executive privilege for something like the health effects of global warming. It is unbelievable.

So now we need an Attorney General who is going to be the people's lawyer, not the President's lawyer, not the one who is going to tell us: Oh, yeah, we just cannot do anything about it, Congress.

We need an Attorney General who is going to check this unprecedented abuse of power, not rubberstamp it.

Unfortunately, because of the deep and thorough questioning of the Judiciary Committee, and my reading of that, I cannot support Judge Mukasey.

Judge Mukasey ruled that President Bush had the authority to detain American citizens as enemy combatants without criminal charges or habeas corpus rights; likewise, during his confirmation hearing, Judge Mukasey failed to demonstrate that he would independently evaluate this President's broad assertion of executive privilege.

When asked if he would permit the U.S. attorney to execute congressional contempt citations when the White House refuses to provide documents to Congress, Judge Mukasey did not say yes. He should have said yes.

The statute is clear. The statute is clear that when Congress issues a contempt citation, the U.S. attorney is required to bring the matter to a grand jury.

What Judge Mukasey said was, he would have to look at it. He would have to see if it really was reasonable. The fact is, that is not what the statute says. There is no ''reasonable'' test. When the Congress issues a contempt citation, the U.S. attorney is required to bring the matter to a grand jury. If the President says ''executive privilege,'' it does not matter. But the judge said he would look at it and see if the President was being reasonable.

So we have to send a clear and unequivocal message to the Justice Department staff. We have to send a clear message to the American people and to the world that the United States honors and respects and will never turn away from our Constitution.

It is so amazing to me. We have a crisis in Pakistan where a dictator—unfortunately, is what I am saying General Musharraf is behaving like—has suspended the Constitution—and everyone here, all of us, feel terrible about this, including the President of the United States, who, as I understand it,

talked to him on the phone and told him to restore the Constitution—and here we cannot get papers from this White House.

I am not comparing that in any way, shape, or form to the kind of suspension of the Constitution we see abroad. But I am saying in this country—in this country—everyone assumes the Constitution will be followed. That is why we need an Attorney General now, in 2007, who is going to be so strong on the point.

Yes, he should have said if Congress issues a contempt citation, of course, we will do what we have to do under the law. So it is not enough to hope the nominee will exercise independent judgment and stand up to this President and Vice President. We must know from the record before us that this nominee will uphold the Constitution and our laws and do it clearly and unequivocally.

Now, that is a high standard. I admit that. But that is what the people of this great Nation deserve, nothing less. Unfortunately, Judge Mukasey's response to questions about torture do not meet the standard.

During his confirmation hearing, the nominee was asked whether waterboarding is illegal. Now, I know a lot of people have discussed this, and perhaps we are all being repetitious. But I think we need to say how we feel.

This is a moment for this Senate. This has been a long day for all of us. I know for me it has been a big day. I helped to lead, along with Senator INHOFE, an override of a very important bill. I had a hearing on global warming. I had a briefing on global warming. I have been at it, just as we all have.

But I came out to the floor because I think this is an important moment where Members have to be heard. We must know from the record before us that the nominee will uphold the Constitution and our laws. And, yes, it is a high standard that the people deserve.

So when the nominee was asked whether waterboarding is illegal, he responded if waterboarding is torture, then, in fact, it is unconstitutional. So I have to ask this rhetorical question: If waterboarding is torture? If? We are talking about a brutal interrogation technique that simulates drowning.

Not surprisingly, members of the Judiciary Committee were not satisfied with this answer. And I praise them. They probed, they questioned, they asked again: Is waterboarding illegal?

This time, the judge responded with a four-page letter that, once again, failed to answer. He called the question ''hypothetical.'' He said his legal opinion would depend on ''the actual facts and circumstances.'' Depend on ''the actual facts and circumstances'' if waterboarding is torture? Is this the message we want to send to the world, that our evaluation of a brutal tactic depends on ''facts and circumstances''?

In fact, Judge Mukasey's answer was a bit too similar to a statement by Alberto Gonzales that the legality of torture techniques ''would depend on circumstances.''

This is not a clear answer. This is not unequivocal. And it is not what we need in an Attorney General now, in 2007, when the world is turning away from America as a moral leader.

Teddy Roosevelt did not have to consider the ''facts and circumstances'' in 1902 when he court-martialed and removed an American general in the Philippines for allowing his troops to engage in waterboarding. That was 1902, the last century, the turn of the last century, and we have someone equivocating on this point? President Roosevelt said then nothing can justify the use of torture or inhuman conduct by our military.

Senators MCCAIN, WARNER, and GRAHAM did not have to consider ''the facts and circumstances'' when they wrote to Judge Mukasey:

> Waterboarding, under any circumstances, represents a clear violation of U.S. law.

Waterboarding today is not a hypothetical. It is used in Burma against supporters of democracy. Waterboarding is an unconstitutional form of cruel and inhumane treatment. It is illegal under U.S. laws—from the Torture Act, which prohibits acts ''specifically intended to inflict severe physical or mental pain or suffering,'' to the Detainee Treatment Act, which prohibits ''cruel, inhuman or degrading treatment.''

It is illegal under international laws, such as the Geneva Conventions, which are not quaint. Those conventions prohibit cruel, humiliating, and degrading treatment.

Following World War II, the United States convicted several Japanese soldiers for waterboarding American and allied POWs. Let me repeat: Following World War II, the United States convicted several Japanese soldiers for waterboarding American and allied POWs. What kind of statement are we hearing from Judge Mukasey? Our law and our history are crystal clear, so why can't Judge Mukasey state in unequivocal terms that waterboarding is torture and that is illegal?

Mr. President, I ask unanimous consent for 1 additional minute and I will sum up.

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

Mrs. BOXER. Mr. President, our country is at a critical point in our history. This President and Vice President have shown reckless disregard for the rule of law and the institutions sworn to uphold it.

Now, more than ever before, we need an Attorney General who can exercise independent judgment and who will exercise independent judgment. We need an Attorney General who shows every day, by word and by deed, that the United States is still the world's standard bearer for the rule of law. We need an Attorney General who will truly turn the page and write a new chapter for the Justice Department and for our country.

It is very rare that I vote no on these kinds of nominations. I do it now and then. But I have to say, regretfully, tonight I have concluded Judge Mukasey does not meet the critical standard and at this time I feel very strongly that he should not be confirmed.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Massachusetts is recognized for 10 minutes.

Mr. KENNEDY. Mr. President, the Department of Justice is in a state of crisis. Under Attorney General Gonzales, it too often served as a rubberstamp for the White House and as a pawn for political gain, rather than as the Nation's guardian of the rule of law. It ignored the law and authorized torture and warrantless surveillance. It let politics drive decisions about who should be prosecuted. It fired U.S. attorneys who would not go along. It hired and punished career attorneys on the basis of their personal politics, and it abandoned enforcement of our civil rights laws.

After such an unacceptable period of tarnished leadership of the Department, we need a clear, decisive, and straightforward Attorney General who is not afraid to stand up for the Constitution and the rule of law—especially when that means disagreeing with the President of the United States.

I had hoped Judge Mukasey would be that person. He is, clearly, an able lawyer, and his commitment to public service as an assistant U.S. attorney and Federal judge is admirable. As a Federal judge for almost 19 years, he was, by all accounts, fair and conscientious in the courtroom. But after listening to Judge Mukasey's testimony and considering his responses to written questions from the members of the Judiciary Committee, I have concluded he is not the right person to lead the Justice Department at this crucial period of our history.

The next Attorney General must restore confidence in the rule of law. He must show the American people and the world America has returned to its fundamental belief in the rule of law as the bedrock protector of our national values. Only an Attorney General who is not afraid to speak truth to power can be such a leader. Regrettably, Michael Mukasey has shown he is not that leader.

Similar to many of my colleagues and many American citizens, I am deeply troubled by Judge Mukasey's evasive answers about torture. He has repeatedly refused to acknowledge that waterboarding—the controlled drowning of a prisoner—is torture. Instead, he has said only that torture is unconstitutional without being willing to say whether waterboarding is torture.

As the record makes clear, courts and tribunals have consistently found waterboarding to be an unacceptable act of torture. As Malcolm Nance, a former master instructor and chief of training at the U.S. Navy Survival,

Evasion, Resistance and Escape School, said of waterboarding:

For the uninitiated, it is horrifying to watch and if it goes wrong, it can lead straight to terminal hypoxia. When done right it is controlled death.

During the questions for Judge Mukasey in the Judiciary Committee, he was asked these questions:

Is the use of a wet towel and dripping water to induce the misperception of drowning (i.e, waterboarding) legal?

Listen to what the Judge Advocates said:

''No,'' said RADM Bruce McDonald, U.S. Navy Judge Advocate General.

''No,'' said BG Kevin Sandkuhler, U.S. Marines, Judge Advocate General.

''No. An interrogation technique that is specifically intended to cause severe mental suffering involving a threat of imminent death by asphyxiation is torture,'' said MG Jack Rives, U.S. Air Force Judge Advocate General.

''Inducing the misperception of drowning as an interrogation technique is not legal,'' said MG Scott Black, U.S. Army Judge Advocate General.

Waterboarding is an ancient and barbaric technique. In the fifteenth and sixteenth centuries, interrogators of the Spanish inquisition used it. It was used against slaves in this country. In World War II, it was used against our soldiers by Japan. In the 1970s, it was used against political opponents of the Khmer Rouge and the military dictatorships of Chile and Argentina. As I speak, it is being used against prodemocracy activists by the military dictators of Burma. This is the company the Bush administration embraces when it refuses to renounce waterboarding.

But Judge Mukasey is unwilling to say waterboarding violates the law. He calls it repugnant, and it obviously is. But he refuses to condemn it as unlawful. Why? The answer seems painfully obvious. Former intelligence officers and supervisors have admitted—and the Vice President has confirmed—that the CIA has waterboarded detainees. Had Judge Mukasey renounced waterboarding as unlawful, he would have had to assert his independence and speak the truth about this administration's lawlessness. He was unwilling to do so.

We were told Judge Mukasey had agreed to enforce a new law prohibiting waterboarding if Congress passed it. There are two problems with this statement. First, enforcing laws passed by Congress that are constitutional is the job of the Attorney General. It is a prerequisite to occupying the office, not a concession to be offered to win confirmation.

But, second, waterboarding is already illegal. It is illegal under the Geneva Conventions, which prohibit ''outrages upon personal dignity,'' including cruel, humiliating, and degrading treatment. It is illegal under the Torture Act, which prohibits acts ''specifically intended to inflict severe physical or mental pain or suffering.'' It is illegal under the Detainee Treatment Act, which prohibits ''cruel, inhumane, or degrading treatment,'' and it violates the Constitution. The Nation's top military lawyers and legal experts across the political spectrum have condemned waterboarding as illegal. After World War II, the United States prosecuted Japanese officers for using waterboarding. What more does this nominee need to enforce existing laws?

The Attorney General must have the legal and moral judgment to know when an activity rises to the level of a violation of our Constitution, treaties or statutes. But this nominee wants to pass the buck to Congress. He has failed to demonstrate that he will be the clear, decisive, and straightforward leader the Department of Justice so desperately needs.

This administration has recklessly brushed aside the rule of law for 7 years. We need an Attorney General who will stand up to this destructive conduct and say: No more. We cannot afford to take our chances on the judgment of an Attorney General who either does not know torture when he sees it or is willing to look the other way to suit the President.

I urge the Senate to vote no on this nomination.

Mr. SPECTER. Mr. President, before yielding 15 minutes to the Senator from New York, I would like to note to my colleagues we have Senator GRAHAM listed with a request for a short period of time, and the only request pending for those in support of Judge Mukasey, so unless other Senators come to the floor, at least on our side, we may be nearing the end of debate. I think it is appropriate to put all Senators on notice that we could be voting perhaps shortly after 10 or the 10:30 range.

I yield 15 minutes, as I said, to Senator SCHUMER.

The ACTING PRESIDENT pro tempore. The Senator from New York is recognized for 15 minutes.

Mr. SCHUMER. Thank you very much, Mr. President. I wish to thank Senator SPECTER for yielding time and I wish to thank all my colleagues for this debate.

I intend to vote to confirm Michael B. Mukasey to be the 81st Attorney General of the United States. I do so for one overarching reason: the Department of Justice, one of the crown jewels among our Government institutions—once the crown jewel—is now adrift and rudderless. It desperately needs a strong and independent leader at the helm to set it back on course. A number of people's lives who are affected day to day in quiet but material ways by what this Justice Department does are at risk. We don't hear from them. Their issues, whether it is the ability to vote or the right to be safe or the ability to be protected from economic crime, we don't hear about that. But it matters.

Under previous leadership—or lack thereof—the Justice Department has become adrift. The Justice Department has become rudderless. The Justice Department has become politicized. The Justice Department has become an agency where morale is as low as it has ever been. So we desperately need a strong and independent leader at its helm to set it back on course, and that is not a trivial statement or a statement to be forgotten or passed over. I believe Judge Mukasey is that person.

As almost everyone in America knows, the Justice Department has been run into the ground by the Bush administration, especially under Alberto Gonzales. As I said when I introduced Judge Mukasey, he will be inheriting an agency experiencing its greatest crisis since Watergate and, if confirmed, his tasks will be no less momentous and no less difficult than that facing Edward Levi when he took the reins of John Mitchell's Justice Department after Watergate. A department in such crisis should not be left to an unconfirmed and unaccountable caretaker.

We need to look no further than our own investigation in the Senate Judiciary Committee to see that we need a real leader at the top of the Justice Department. What we learned in that investigation over the last 9 months leads inexorably to the conclusion we cannot afford a caretaker Attorney General for the next 14 months.

Let me review—because they seem almost forgotten in this Chamber tonight—some of the most disturbing revelations. We learned that outstanding U.S. attorneys were dismissed without cause or, worse, because they may have been too tough on Republicans or too soft on Democrats. We learned that career Civil Rights Division lawyers have been driven out in droves; that when these lawyers said that civil rights were being violated or the Voting Rights Act was being violated, they were overruled by political decisions made from the top.

In my judgment, there was no way that any fair Justice Department would have allowed the voter ID process that is now in place in Georgia and take back the ability to vote that was fought for so long and hard.

We learned that individuals appear to have been prosecuted for political reasons. In the other House, the Judiciary Committee did an extensive investigation, and in the process of doing one, it appears more and more likely that a Democratic Governor in Alabama is sitting in jail because of a political prosecution. How can we have that in America? How can we allow that? How can we countenance it?

We learned that White House liaison Monica Goodling unlawfully rejected young lawyers for career jobs because they were not conservative ideologues.

We learned that there were improper political litmus tests in hiring decisions in the Civil Rights Division, in the prestigious Honors Program, and even in the Summer Law Intern Program. So politics permeated the Justice Department—the Department,

above all, that should be immune from politics and had been until this administration.

We learned that Bradley Schlozman, in violation of the Department's own policy, brought indictments on the eve of an election in Missouri, seemingly to influence the result. We learned that politics seems to have trumped professionalism in decisionmaking about voting rights cases, tobacco litigation, and other matters. The list goes on and on.

Justice is sacred in this country. It is the Justice Department that must produce justice.

In sum, we learned that politics has been allowed to infect all manner of decisionmaking at the Department of Justice.

Now we are on the brink of a reversal. There is virtually universal agreement, even from those who oppose Judge Mukasey, that he would do a good job in turning the Department around in these areas.

One of my colleagues who is voting against the nominee nonetheless lauded Judge Mukasey as ''a brilliant lawyer, a distinguished jurist and, by all accounts, a good man.''

Another colleague on the Judiciary Committee, who is also voting nay, had this to say:

> Over the remaining 15 months of the Bush Presidency, the Department must recover its credibility and its reputation. . . . Judge Mukasey appears to have the intelligence, the experience, and the stature to undertake this very important task.

Such comments of confidence echo the comments of those who have appeared before the judge in court. As a jurist, Judge Mukasey has a well-deserved reputation for efficiency, fairness, and integrity. Indeed, even those who didn't always receive the benefit of a favorable ruling from the judge have been quick to describe the judge's basic fairness and decency.

Upon his retirement from the bench, one of Jose Padilla's lawyers said, ''I admire him greatly'' and described herself as ''another weeping fan.'' That is a lawyer for Mr. Padilla.

Another Padilla lawyer has said, ''I don't always agree with where he comes out, but I am happy, always happy to draw him as a judge. You are going to get your day in court.'' He went on to say that ''his sense of fairness and due process—it's more than intellectual. It's really down to the genetic level. It's in his DNA.''

There are many such testimonials for Judge Mukasey. Because he is so dead wrong on torture, which I think he is, does not take away all of these other things. And if we are to reject him, make no mistake about it, we will not have somebody in his place who can live up to that standard. Should we reject Judge Mukasey, President Bush has already said he would install an acting caretaker Attorney General who could serve for the rest of his term without the advice and consent of the Senate. It would be another Alberto Gonzales or maybe even worse. It would be the Cheney-Addington wing running the Justice Department on the issues of security. Judge Mukasey is hardly perfect. He would not be the person I would have nominated, but he is clearly head and shoulders better than what we would get. That is not something to be dismissed. That is not something to be forgotten. It is hardly mentioned on this floor.

The main function of the Justice Department would be taken back and railroaded far from where it should be, and it would be gone for another long 14 months. It would mean accepting and exacerbating the declining morale at the highest levels of the Department. It would mean delaying vital reforms relating to depoliticizing prosecutions. It would mean tolerating continued vacancies in many of the top positions at the Justice Department. Perhaps most important, it would mean surrendering the Department to the extreme ideology of Vice President CHENEY and his Chief of Staff, David Addington. All the work we have done—the hearings, the letters, the requests to get the Attorney General to resign—would be undone in a quick moment. That is serious, colleagues.

I have complete respect for people who disagree. It is a values choice. But let's not forget that a caretaker Attorney General will not be close to Judge Mukasey on the issues that brought the downfall of Attorney General Gonzales. Let us also not forget that Judge Mukasey has had a long and distinguished career. Because his views on torture are different from so many of ours, including my own, does not evaporate all of these other important considerations.

Let me be clear on the torture question, which understandably motivates so many of my colleagues. I deeply oppose this administration's opaque, mysterious, and inexplicable policy on the use of torture. This is not a policy that was constructed by Judge Mukasey.

In particular, I believe that the cruel and inhumane technique of waterboarding is not only repugnant but also illegal under current laws and conventions, period. I also support Congress's efforts to pass additional measures that would explicitly ban this and other forms of torture. I voted for Senator KENNEDY's antitorture amendment in 2006, and I am a cosponsor of a similar bill in this Congress. If it was important to do it in 2006, it is also important to do it in 2007.

When Judge Mukasey came before the Senate Judiciary Committee last month, he refused to state that waterboarding was illegal. That was unsatisfactory, that was wrong, and that will be a blemish on his distinguished career for as long as he lives. But he has personally made it clear that if Congress passed further legislation in this area, the President would have no legal authority to ignore it—not even under some theory of inherent authority granted by article II of the Constitution. That is a very important point.

My colleagues say we will never pass an amendment on torture and waterboarding. That may be; it may not. But the fact that Judge Mukasey has rejected the overreaching theory of the unitary executive certainly in this area, and in others, says something about what kind of Attorney General he will be on torture, on wiretapping, and on all of the other issues where basically this Department and this administration thought Congress should have no say at all.

Furthermore, maybe it will be the courts that will rule torture is illegal. Judge Mukasey will abide by those court decisions that make waterboarding illegal. Judge Mukasey will allow those court decisions to stand. I don't think we doubt that.

The expansive article II argument, of course, is one that this administration—in the form of President Cheney and David Addington—has explicitly endorsed. In an infamous torture memo, the following passage was reportedly insisted upon by David Addington:

> Prohibitions on torture must be construed as inapplicable to interrogations undertaken pursuant to his commander-in-chief authority. . . . Congress may no more regulate the President's ability to detain and interrogate enemy combatants than it may regulate his ability to direct troop movements on the battlefield.

That is a horrible statement. Unlike either of his predecessors, Judge Mukasey specifically rejects this view.

I asked him:

> If Congress were to legislate against certain forms of coercive interrogation, such as waterboarding, in all circumstances, not just relating to those in the Department of Defense custody, would it be acting within its constitutional authority?

He answered ''yes.'' No qualifier. And contrary to the views of the Vice President and his Chief of Staff, he specifically stated that the President would not have legal authority to ignore it, even under his inherent authority under article II. For a Bush nominee, this is no small commitment. It is a dramatic difference from both Attorney General Ashcroft and Attorney General Gonzales. It is a quantum leap over the views of Alberto Gonzales and signals that we may yet get an independent review—and perhaps reversal—of some of the worst of the administration's legal policies.

I also believe this because I asked him what he thought of a book written by Jack Goldsmith called ''The Terror Presidency.'' Mr. Goldsmith, as many will recall, was the former head of the Office of Legal Policy, the principal person who sounded the alarm over badly reasoned and overreaching legal opinions within the Government. He was the courageous official who started the process that led to the infamous showdown in the hospital room of John Ashcroft over the President's warrantless wiretapping program.

In his book, Mr. Goldsmith is a relentless critic of the unilateral my-

way-or-the-highway approach of Vice President CHENEY and David Addington. When I asked Judge Mukasey what he thought of the book, he said he thought it was superb, and he endorsed many of its arguments. He also told me privately that the administration's unilateral approach to legal policy was likely responsible for its low approval ratings in the polls. So we have a nominee who is head and shoulders above his predecessors in a number of ways, including in his commitment to work with Congress.

One more thing on the issue of torture, my colleagues. Let's assume Congress cannot pass a law, and let's assume even that the courts do not rule the way we think they should. Still, Judge Mukasey will be head and shoulders different, very possibly, than a caretaker. Mukasey would be more likely than a caretaker to find on his own that waterboarding and other coercive techniques are illegal. He didn't say they are illegal. A caretaker would. He said he would have to study them. He should not have to. There is still a chance that somebody regarded as thoughtful and independent, and a lawyer above all, may—and I cannot say he will, and I wish I could—find on his own that waterboarding and other coercive techniques are illegal. Certainly, there is more of a chance with Judge Mukasey than with a caretaker. So even if you are voting on the issue of torture alone—which I am not—to vote down Judge Mukasey and install an independent caretaker will not solve the problem of torture and, in all likelihood, will leave us worse off, not better.

Judge Mukasey's answers to our questions demonstrated more openness to ending the practices we abhor than either of those who were the previous Attorney General nominees.

In many respects, Judge Mukasey reminds me of Jim Comey, a former Deputy Attorney General in the Bush administration who has been widely praised for his independence. Would we turn down Jim Comey knowing his courage? No. Today, would we turn down Goldsmith? No. Both of them have very conservative views.

Might I have an additional 5 minutes to finish my remarks, I ask my colleague from Pennsylvania.

Mr. SPECTER. The Senator may.

The PRESIDING OFFICER (Mr. MENENDEZ). The Senator is recognized.

Mr. SCHUMER. Mr. President, again, if the issue is torture alone, we clearly will be as bad off as we are today with a caretaker. We may—not will, maybe not even likely—have a chance, a decent chance of being better with Mukasey than with the alternative. And as with Comey and Goldsmith, no, Mukasey will not have our views particularly on issues of security. No one this President nominates will. That is why we are working so hard to get a new President with different views. But on issues of the rule of law and independence and integrity, Judge Mukasey will clearly be much better than others.

I wish to say this to my colleagues, a vast majority of my colleagues who oppose this nomination: I respect their views. I understand the anger and the anguish about what this administration has done to that beautiful lady who stands in the harbor of the city in which I live. I share that anguish. I share it. Unfortunately, we are in a world where this administration will continue for another 14 months.

Let me ask my colleagues to think about this: Let's say we reject Judge Mukasey tonight and the caretaker is installed, and 6 months from now the exact same policies we abhor continue. Will this have been a great victory?

I understand the importance of standing up to the President. Few would accuse me of not doing that. And I understand the importance of symbolic victory. But this is a tough choice because there is a lot at stake on the other side. There is at stake the integrity of a department which is in shambles, which is politicized, and which has routinely rejected the rule of law which is the fundamental wellspring of this Nation and this democracy. And we have a chance, at least a good part of the way, to restore it. The Department of Justice is the front-line agency safeguarding our civil rights, fighting public corruption, curbing violent crime, enforcing environmental laws, and much more.

I deplore the administration's opaque policy on torture, as I mentioned before, but I also care about attempts to affect elections through suspiciously timed criminal prosecutions. I care about criminal cases brought for political reasons. I care about allegations that our leading law enforcement agency is stocked with inexperienced cronies rather than experienced professionals. I care about a downward spiral in civil rights cases brought in recent years. I care about a loss of morale among a 100,000-person strong institution and every week, at one airport or another in this country, how insistent U.S. attorneys came to me and said: Do something. Judge Mukasey, in all likelihood, will do something. A caretaker will not. I don't want to turn those pleas aside, even though I have strong disagreement with Mr. Mukasey on many substantive issues, torture among them. I care about a continuing uptick in violent crime due to a department's failure to keep its eye on the ball and not have the most qualified people in important positions. I care about the Department, and I care about justice. And it is not a small matter to take someone who is measurably better than what his replacement would be and reject it.

Again, this is value choice. There are good arguments on each side. People's values will have them come down on different sides. But anyone who thinks this is an easy choice, anyone who thinks that should Judge Mukasey be rejected things will improve from the desperate, deplorable state in which they are now is wrong.

No one questions that Judge Mukasey would do much to turn around the Justice Department and move to remove the stench of politics from this vital institution. I believe we should give him that chance. There is too much at stake not to.

Mr. BINGAMAN. Mr. President, I rise today to speak about the nomination of Michael Mukasey to be the next United States Attorney General.

First, let me say that by all accounts Judge Mukasey is a good man with a long distinguished record. In his testimony before the Senate Judiciary Committee, he made clear that he understands the need to restore the public's trust and confidence in the Department of Justice. I also believe he demonstrated a willingness to take the necessary steps to de-politicize the Department, and to provide the leadership required to repair its credibility.

However, I am also deeply troubled by the positions Judge Mukasey has taken regarding several important issues. Much has been said about Judge Mukasey's unwillingness to clearly state that certain interrogation techniques, such as waterboarding, are unlawful and amount to torture. I share this concern, but I would also like to highlight another area that I find particularly disturbing; that is the idea that the President doesn't have to comply with a constitutional law passed by Congress.

Over the last 6 years, the Bush administration has put forth a view of Executive power that is incredibly expansive, and in my opinion, an unjustified and dangerous threat to our fundamental rights and our commitment to the rule of law.

The President has asserted the right to unilaterally imprison whomever he wants without judicial review, whether or not they are a United States citizen, if he determines that they are a so-called ''enemy combatant.'' The administration has taken the position that the President can authorize the use of techniques that amount to torture, and then immunize any person acting pursuant to his orders from criminal liability. The President also authorized warrantless surveillance in direct contravention to the Foreign Intelligence Surveillance Act.

In all of these instances, the President justified his actions on the basis that he was acting within his authority as commander-in-chief to defend the country, and that neither Congress nor the courts can infringe on this power. While many of these assertions have ultimately been rejected by Federal courts, Congress, or overturned internally when they became public, the President continues to assert that there are few restraints on his power when it comes to national security matters.

During his confirmation hearing, Judge Mukasey stated that he would step down if he determined that the

President's actions were unlawful and the President refused to heed his advice to change course. Although this does signal a welcomed degree of independence, I remain concerned about what Judge Mukasey will find to be ''lawful.''

Let me read an exchange that took place during a hearing in the Senate Judiciary Committee which illustrates this point.

Senator Leahy: . . . where Congress has clearly legislated in an area, as we've done in the area of surveillance with the FISA law, something we've amended repeatedly at the request of various administrations . . . if it's been legislated and stated very clearly what must be done, if you operate outside of that, whether it's with a presidential authorization or anything else, wouldn't that be illegal?

Judge Mukasey: That would have to depend on whether what goes outside the statute nonetheless lies within the authority of the president to defend the country.

Senator Leahy: Can the President put someone above the law by authorizing illegal conduct?

Judge Mukasey: If by illegal you mean contrary to a statute but within the authority of the President to defend the country, the President is not putting somebody above the law, the President is putting somebody within the law.

While this view may be consistent with the current administration's position regarding Executive authority, this stance is not consistent with how the powers of the president have traditionally been interpreted. The notion that the President may disregard a valid law by citing his inherent power to defend the country is disconcerting.

And frankly, it is all too reminiscent of President Nixon's assertion that actions taken in the name of national security, whether or not they are in accordance with relevant statues, are by definition legal if they are carried out on behalf of the President. This assertion was widely rejected, as it should have been.

As our Nation's highest law enforcement officer, it is essential that the Attorney General faithfully execute laws passed by Congress. It is one thing for the Attorney General to state that he or she will not enforce a certain measure because it is unconstitutional; however, it is a very different matter if the Executive Branch asserts that it is not bound by a law that is clearly constitutional.

It is for this reason that I cannot support the nomination of Judge Mukasey to be the next Attorney General.

Mr. ALLARD. Mr. President, I rise today in support of President Bush's nomination of Judge Michael B. Mukasey to serve as Attorney General of the United States. I am pleased that leadership is bringing Judge Mukasey's nomination to the Senate floor. It has been more than 45 days since his nomination, making him the longest pending nominee for Attorney General in more than 20 years.

Judge Mukasey expressed to me earlier today his desire to fill the leadership void at the Justice Department and assured me that he is prepared to address the challenges we face as a nation. I greatly appreciate his attention to the important issues pertaining to Colorado and his strong commitment to the rule of law.

Judge Mukasey demonstrated a fine record of management as the presiding judge over one of the busiest judicial districts in the Nation and I am confident that he is qualified to be our next Attorney General and aware of the challenges we face at the Justice Department.

I am truly impressed with this Nominee's background. I would point out that Judge Mukasey is not a Washington insider. Judge Mukasey recently worked as a partner at the New York law firm of Patterson, Belknap, Webb and Taylor. Judge Mukasey has spent his career in New York since President Ronald Reagan nominated Mukasey to serve on the U.S. District Court for the Southern District of New York in 1987. He spent almost 19 years as a Federal judge, including serving as chief judge until his retirement from the bench in 2006.

Judge Mukasey has shown a strong commitment to the rule of law and has a demonstrated record of managing one of the busiest judicial districts in the Nation. Both attributes qualify him to lead the Department of Justice in fulfilling its mission of enforcing all of the Nation's laws fairly and vigorously.

Judge Mukasey's record as a Federal district judge shows a strong and independent commitment to the rule of law. As chief judge of the Southern District of New York, he managed one of the busiest dockets in the Nation. His work following the attacks of September 11 ensured that individuals could access the courthouse even in the immediate aftermath of a national emergency.

Attorney General Mukasey would not hesitate to say no to anyone, including the President. No man is above the law, and Judge Mukasey has stated that he would resign rather than participate in a violation of the law.

I would also point out that Judge Michael Mukasey has a very strong background on national security issues, most notably as a federal district court judge. He has ruled in national security cases involving at least 15 different defendants. Moreover, he has issued at least two dozen national security related opinions.

I strongly urge my colleagues to cast a vote in favor of Judge Michael B. Mukasey's confirmation as the 81st Attorney General of the United States.

Mr. LEVIN. Mr. President, tonight the Senate will vote on the nomination of Judge Michael Mukasey to be Attorney General. His nomination comes at a critical time. At this moment in history, America is faced with serious challenges both at home and abroad. We are at war in Iraq and Afghanistan and are engaged in a long-term struggle against al-Qaida and other extremists. Military might alone will not be enough for us to win these fights. Strengthening America's security requires us to harness the power of our ideals and values and lead a global effort to confront these threats. When we project moral hypocrisy or suggest that our commitment to our fundamental values depends on the circumstances, we lose the support of the world in our common efforts against common enemies, thereby compromising our own security.

The pictures of American soldiers mistreating prisoners at Abu Ghraib and the stories of detainee abuse at Guantanamo Bay compromised our moral authority and our ability to lead the global struggle against al-Qaida. America must demonstrate an unambiguous commitment to basic human rights. And this is not some intellectual musing. It is hard headed pragmatism.

Earlier this year, I visited some of our veterans at a Michigan VA hospital. I asked one Korean war veteran who was lying in his bed: What can we do to help you? And do you know what he said? ''Win back the respect of people around the world for America.'' That veteran understands that the erosion of support for America makes us less secure and weakens us in a way that military force cannot remedy.

I have devoted significant time looking into the issue of detainee abuse and considering what is appropriate when it comes to the treatment of detainees in U.S. custody. Building back the respect for America that the Michigan veteran and all of us seek requires a definitive commitment to treating all people—even our enemies—in a manner consistent with both our laws and basic human rights.

Last month I asked Judge Michael Mukasey, President's Bush's nominee to be Attorney General of the United States, what I thought was a straightforward question for the record:

Would you consider it inhumane to secure a detainee onto a flat surface and slowly pour water directly onto the detainee's face or onto a towel covering the detainee's face in a manner that induced a perception by the detainee that he was drowning?

That question to Judge Mukasey should have prompted a simple answer of ''yes.'' But the Judge said that, while the tactic is ''repugnant'' to him, he could not say it was inhumane without evaluating the ''facts and circumstances.'' Judge Mukasey's ambiguous response is more than deeply troubling, it sends a message—from the man nominated to head the Department of Justice—that abuses of detainees in U.S. custody may not have been categorically wrong, but that such acts might have been justified by the circumstances.

In 2002, the Department of Defense requested authority to use a number of aggressive interrogation techniques—including mock drowning—on detainees held at Guantanamo Bay. FBI agents vigorously objected to the aggressive techniques. One stated in a

legal analysis that aggressive techniques, including mock drowning, were ''not permitted by the U.S. Constitution.''

Another FBI agent also expressed alarm to his Justice Department colleagues over a DOD interrogation plan for a detainee held at Guantanamo Bay, saying ''You won't believe it!'' An e-mail described abuses that a FBI agent had witnessed, including detainees being chained in fetal positions on the floor for 18 to 24 hours at a time, having urinated and defecated on themselves and being subjected to extreme cold.

If Judge Mukasey were to be confirmed to lead the Department of Justice, he would take charge of the FBI. How would Judge Mukasey respond to those FBI agents? Would he have said that the validity of those objections depended on the ''circumstances''?

Over the past 5 years, the Department of Justice has repeatedly issued aggressive legal opinions that seek to exploit any possible legal ambiguity to justify the administration's policies. In 2002, for example, the Department of Justice issued a now disavowed memo finding that physical pain had to be ''equivalent in intensity to the pain accompanying serious physical injury, such as organ failure, impairment of bodily function, or even death'' to constitute torture. The Executive order that the President issued in July of this year interprets Common Article 3 of the Geneva Conventions to bar only those outrageous acts that are done ''for the purpose of humiliating or degrading the individual.'' The Geneva Conventions make no such distinction. These results-driven interpretations of law have contributed to the negative image of the United States in the world, leaving many to question why we attempt to impose standards on other countries that we do not require of ourselves. These interpretations endanger our troops when captured because their captors will cite these interpretations to justify abuses of our troops.

It does a disservice to our Nation for a person who has been nominated to lead the Department of Justice to hide behind purposeful ambiguities, particularly at a time when our Nation's prestige has been so tarnished by abuses against detainees in our custody. The legality of mock drowning—waterboarding—does not depend on the circumstances. It is illegal.

Waterboarding clearly runs afoul of three Federal statutes—the 1994 antitorture statute, the Military Commissions Act, and the Detainee Treatment Act—and it is inconsistent with our obligations under Common Article 3 of the Geneva Conventions.

In his answers to questions from the Judiciary Committee, Judge Mukasey refused to state whether waterboarding constitutes torture under U.S. law. Under the Federal antitorture statute adopted in 1994, 18 U.S.C. § 2340, an act is torture if it is specifically intended to cause ''severe physical or mental pain or suffering.'' The statute defines ''severe mental pain and suffering'' as mental harm caused by, among other things, ''threat of imminent death.'' Pouring water over a detainee's face to create the sensation of drowning is intended to threaten imminent death.

In questions for the record of an August 2006 Senate Judiciary Committee hearing, Senator DURBIN asked each of the Judge Advocates General, JAGs, of the Marine Corps, Air Force, Army, and Navy whether, in their personal view: ''the use of a wet towel and dripping water to induce the misperception of a drowning (i.e., waterboarding) (was) legal?'' The answer from each of the JAGs was an unequivocal ''No.'' The Marine Corps JAG responded to Senator DURBIN ''Threatening a detainee with imminent death, to include drowning, is torture under 18 U.S.C. § 2340''—the anti-torture statute. Similarly, the Air Force JAG stated: ''An interrogation technique that is specifically intended to cause severe mental suffering involving a threat of imminent death by asphyxiation is torture under 18 U.S.C § 2340.'' And the Army JAG responded: ''inducing the misperception of drowning as an interrogation technique is not legal.''

Whether the practice of mock drowning is legal is a question that our Nation's top military lawyers had no problem answering. But the nominee for Attorney General says that it depends on ''circumstances,'' it could be ''yes,'' it could be ''no.''

The U.S. Navy's Survival, Evasion, Resistance, and Escape—SERE—School trains our troops, whose dangerous assignments leave them susceptible to being captured, to resist and survive abusive tactics that might be used by the enemy. Waterboarding is one of the tactics that troops are exposed to at Navy SERE school. Listen to how a former master instructor and chief of training at the Navy's SERE school described waterboarding in an October 31, 2007, article in the New York Daily News:

> Waterboarding is slow-motion suffocation with enough time to contemplate the inevitability of blackout and expiration. Usually the person goes into hysterics on the board. For the uninitiated, it is horrifying to watch. If it goes wrong, it can lead straight to terminal hypoxia—meaning, the loss of all oxygen to the cells.''

As he put it, ''waterboarding is a torture technique—without a doubt. There is no way to sugarcoat it.''

A U.S. Federal court has concluded that mock drowning constitutes torture. The Ninth Circuit Court of Appeals examined an interrogation technique used by the Philippine military under Ferdinand Marcos whereby ''all of [the victim's] limbs were shackled to a cot and a towel was placed over his nose and mouth; his interrogators then poured water down his nostrils so that he felt as though he was drowning.'' The court referred to this practice as ''water torture'' and found against those responsible for this and other illegal acts.

By contrast, Judge Mukasey not only refuses to state that waterboarding is torture, he also refuses to say whether it constitutes ''cruel or inhuman treatment,'' which is illegal under the Military Commissions Act of 2006.

Congress enacted the Military Commissions Act in the wake of Abu Ghraib scandal. The statute bans interrogations tactics that constitute ''cruel or inhuman treatment,'' which it defines as any act generally intended to cause ''serious mental or physical pain and suffering.''

Medical experts who have treated and observed the survivors of water torture have described the physical and psychological severity of the practice and its long-term effect. Dr. Allan Keller, associate professor of medicine at New York University, NYU, School of Medicine and director of the Bellevue/NYU Program for Survivors of Torture, recently testified before the Senate Intelligence Committee that a person subjected to the waterboard, ''gags and chokes, [and] the terror of imminent death is pervasive, with all of the physiologic and psychological responses expected, including an intense stress response, manifested by tachycardia, rapid heart beat and gasping for breath. There is a real risk of death from actually drowning or suffering a heart attack or damage to the lungs from inhalation of water.'' Dr. Keller put it plainly, the ''clinical experience and data from the medical literature are clear and unequivocal. These techniques can cause significant and long lasting psychological and often physical pain and harm.''

It is clear that waterboarding involves ''serious'' physical or mental pain or suffering and therefore constitutes illegal ''cruel or inhuman treatment'' under the Military Commissions Act. Yet in response to questions from Senator KENNEDY and Senator BIDEN, Judge Mukasey would not say whether waterboarding is ''cruel or inhuman'' under this legal standard.

When asked whether the practice of mock drowning on detainees was ''cruel, inhuman, or degrading,'' which is a violation Detainee Treatment Act, Judge Mukasey would not respond to the question, simply giving his stock answer that his analysis depends on the ''circumstances.''

Congress passed the Detainee Treatment Act in 2005 to make clear that inhumane treatment is illegal. The Detainee Treatment Act prohibits subjecting any detainee in U.S. Government custody or control, wherever held, to ''cruel, inhuman, or degrading treatment or punishment.'' Those terms were defined to restrict any conduct that would constitute cruel, unusual, and inhumane treatment or punishment prohibited by the U.S. Constitution, which includes conduct that ''shocks the conscience.''

There can be no question that mock drowning ''shocks the conscience'' and

rises to the level of ''cruel, inhuman, or degrading treatment or punishment'' under the Detainee Treatment Act.

I asked Judge Mukasey whether the practice of mock drowning on detainees was ''inhumane,'' which would be a violation of Common Article 3 of the Geneva Conventions. Judge Mukasey would not respond to that question, again giving his stock answer that his analysis depends on the ''circumstances.'' Regardless of what the President's recent Executive order would suggest, the humane standard of Common Article 3 has never varied depending on the type of information in someone's possession or the purpose behind the acts.

The Army Field Manual on Intelligence, which sets standards for military interrogations consistent with the Geneva Conventions and with U.S. law that prohibits ''torture or cruel, inhuman, or degrading treatment or punishment'' explicitly bans certain coercive techniques including ''waterboarding.''

Throughout history America has condemned waterboarding by seeking prosecution of enemies who have used the technique on American servicemembers. Following the Second World War, U.S. military commissions and international tribunals prosecuted individuals who had used waterboarding, or similar forms of water torture on civilians and Allied forces. The U.S. military commissions in the Pacific theater explicitly held that the ''water cure'' was torture in prosecuting cases related to the mistreatment of captured U.S. bomber crews. The U.S. Military Commission at Yokohama, Japan also tried four Japanese defendants for torture, including water torture, of American and Allied forces. Each of the defendants was convicted and sentenced to 20 years hard labor.

Would Judge Mukasey find it acceptable if U.S. soldiers were subjected to mock drowning by our enemies? Would he say that its acceptability depends on the ''circumstances''? Would Judge Mukasey say that he needed to know the motives of our enemies before saying that our soldiers who endured waterboarding had been tortured or subject to inhumane treatment? Would he distinguish between someone who waterboarded our troops to elicit information as contrasted to someone who used the technique on our troops for sadistic purposes?

Judge Mukasey needs to be clear that waterboarding is illegal for the sake of protecting our men and women in uniform from abuse should they ever be captured. Judge Mukasey has not been clear and if he is confirmed to head our Justice Department, it will be America signaling moral ambiguity about what is unambiguously torture and inhumane.

In fact, the United States has prosecuted its own servicemembers who have used waterboarding and similar water tortures during interrogations. During the American intervention in the Philippines, in 1902, a military court rejected MAJ Edwin Glenn's defense of ''military necessity'' and convicted him for using water torture on a captured insurgent. During the Vietnam war, a soldier participated in water torture which was captured in photos and published in the Washington Post on January 21, 1968. According to the Washington Post, the soldier was court martialed for his involvement in the practice.

U.S. veterans who served as interrogators in the Second World War recently discussed how proud they were that they were able to obtain vital information by using skill, not torture, and by treating a dangerous enemy with ''respect and justice.'' In an article in the Washington Post last month, one veteran proudly exclaimed:

> During the many interrogations, I never laid hands on anyone. We extracted information in a battle of the wits. I'm proud to say I never compromised my humanity.

I had hoped Judge Mukasey would stand with that veteran and stand up for American values. But despite the clear law and history, Judge Mukasey engaged in legalisms and obfuscation, playing into the negative image that others project about the U.S.—that we apply double standards.

This kind of obfuscation tarnishes America's image, which has a negative impact on our ability to organize and maintain alliances to achieve national goals. As Steven Kull, the director of the Program on International Policy Attitudes, stated:

> The thing that comes up repeatedly is not just anger about Iraq. The common theme is hypocrisy. The reaction tends to be—You were a champion of a certain set of rules. Now you are breaking your own rules.

Purposeful ambiguity about the legality of waterboarding and the other coercive interrogation techniques he was asked about is at the center of Judge Mukasey's confirmation, just as it is at the center of how we are viewed in the world. That ambiguity is untenable and unacceptable in the person who, if confirmed, will symbolize America's concept of justice before the world. For these reasons, I oppose Judge Mukasey's nomination to be Attorney General.

Mr. FEINGOLD. Mr. President, I will vote against the nomination of Judge Mukasey to be the next Attorney General. This was a difficult decision, as Judge Mukasey has many fine qualities. I was particularly impressed by his determination to depoliticize the Department of Justice. After the debacle of the last Attorney General, this is obviously a very high priority. If nothing else, over the remaining 15 months of the Bush Presidency, the Department must recover its credibility and its reputation. Never again should it be led by someone who is willing to wield its awesome power for political purposes or fill its most important positions with individuals chosen for their politics rather than their legal skills. Judge Mukasey appears to have the intelligence, the experience, and the stature to undertake this very important task.

There are other areas where I was favorably impressed by Judge Mukasey. His straightforward promise to stop the disparate treatment of gay employees at the Department of Justice was welcome and refreshing. He indicated his intention to be a much more hands-on manager of the process for seeking the federal death penalty, and when I asked him in writing if a request by a U.S. attorney to discuss a death penalty decision with Attorney General personally was a valid reason to fire that U.S. attorney, he answered simply, ''No.'' If Judge Mukasey is confirmed, I look forward to working with him to try to ensure that Federal death penalty is fairly administered.

I was also impressed that on several occasions Judge Mukasey was willing to admit in his written answers that some thing he had said or written in the past were incorrect. This administration needs more people who will admit they were wrong when that is the case. That kind of humility and honesty is often the first step toward correcting mistakes and reaching consensus.

In many respects then, Judge Mukasey is a big improvement on the previous Attorney General. At this point in our history, however, the country needs more. Simply put, after all that has taken place over the last seven years, we need an Attorney General who will tell the President that he cannot ignore the laws passed by Congress. And on that fundamental qualification for this office, Judge Mukasey falls short.

The President's warrantless wiretapping program, instituted after 9/11 and carried out in secret until it was revealed in a New York Times article in December 2005, presented the Department of Justice with a historic test of its integrity and its commitment to the rule of law. Under the previous leadership, the Department failed that test. We need an Attorney General who, when faced with a similar crisis, will look the President in the eye and tell him ''No.''

When I first met with Judge Mukasey, I questioned him about the two justifications for authorizing warrantless wiretaps that the Department has put forward publicly. With respect to the argument that the authorization for use of military force, or AUMF, somehow authorized warrantless wiretaps, he said, ''I don't see that argument.'' With respect to the argument that the program was legal under the President's article II powers, he said he was ''agnostic.''

I and a number of my colleagues on the Judiciary Committee returned to this question in the hearings and in written questions for the record. Unfortunately, this time the results were not reassuring. He responded to my question for the record about the largely discredited AUMF justification by

saying that ''I still have not come to a conclusion. . . . I believe there are good arguments on both sides of that issue.'' That is a statement that ought to give pause to anyone in this body.

His answers to questions concerning the article II justification indicate that he is no longer agnostic on that question, but instead he has become a believer that executive power trumps the laws written by Congress.

Both at the hearing and in writing, Judge Mukasey stated several times that the President must obey all valid and constitutional statutes, even if he is acting to defend or protect the country. He also said that ''FISA is a constitutional law'' and that ''[a]s a general matter, therefore, the President is not free to disregard or violate FISA.''

But he also stated that ''difficult separation of powers questions'' would arise, and would have to be resolved through the three-part test articulated in the Supreme Court Youngstown case, if a statute—and FISA in particular—were to constrain the President's constitutional authority. If FISA is constitutional—and Judge Mukasey says it is—then why are these separation of powers questions so ''difficult''? Clearly, Judge Mukasey believes that a law can be constitutional on its face, but can become unconstitutional if its application constrains the constitutional authority of the President. There is no difference between this view of executive power and the theory that executive power trumps congressional power. There is no other way to interpret Judge Mukasey's statement to Senator LEAHY: ''If by illegal you mean contrary to a statute, but within the authority of the president to defend the country, the president is not putting somebody above the law; the president is putting somebody within the law.''

This view is simply contrary to Justice Jackson's three-part test in Youngstown. Youngstown makes clear that where the President's constitutional authority and a statute passed by Congress come into conflict, the President's powers are reduced by whatever powers Congress holds over the subject—not vice versa. Jackson states that when the President acts against the will of Congress, ''he can rely only upon his own constitutional powers minus any constitutional powers of Congress over the matter. Courts can sustain exclusive presidential control in such a case only by disabling Congress from acting upon the subject.'' Congress is thus free to constrain the President's constitutional powers to any degree it likes, as long as Congress is acting within its own powers in doing so; likewise, the President's actions may be upheld only if they are ''within his domain and beyond control of Congress.''

The argument that constitutional statutes can become unconstitutional ignores this second part of the inquiry—whether the limitation on the President's authority is in an area where Congress cannot legislate. It is clear that wiretapping is not within the exclusive domain of the President, as Judge Mukasey admits that FISA is a constitutional law. Moreover, the executive authority that Judge Mukasey invoked most often—the authority to protect and defend the country—is not exclusive to the President. It is an authority that Congress shares, which Judge Mukasey admitted in answers to written questions.

I have discussed this issue in some detail because extreme theories of executive power have become one of the primary, and most unfortunate, legacies of the Bush administration. Congress needs to be very clear in rejecting them, and in making respect for the rule of law a nonnegotiable qualification for the office of Attorney General of the United States.

Let me say a word about the issue of torture, which has dominated the debate on the nomination of Judge Mukasey in the past week. Last week, the White House press secretary again implied that Members of Congress who have been briefed on the CIA's interrogation program have approved it or consented to it. That is not the case. I have vigorously opposed the program, and continue to do so. The program is of highly questionable legality, it is inconsistent with our values as a nation, and it does not make our Nation any safer. In fact, I believe that it may have the effect of exposing Americans—including military and other U.S. personnel—to greater risk.

I have detailed the reasons for my strong objections to the CIA's program in classified correspondence, sent shortly after I was first briefed on it. More recently, I have stated my opposition publicly, although I am prohibited by classification rules from providing further details about my concerns in a public setting.

In any event, neither detailed legal and factual analysis, nor knowledge of the operational details of the CIA's program, is necessary to reach a judgment on whether waterboarding is torture. Waterboarding has been used by some of the most evil regimes in history. It has been considered torture in this country for over a century. If Judge Mukasey won't say the simple truth—that this barbaric practice is torture—how can we count on him to stand up to the White House on other issues?

America needs an Attorney General who stands squarely on the side of the rule of law. This is not an arid, theoretical debate. The rule of law is the very foundation of freedom and a crucial bulwark against tyranny. Congress cannot stand silent in the face of this challenge by the executive to the crucial underpinnings of our system of government.

The Nation's top law enforcement officer must be able to stand up to a chief executive who thinks he is above the law. The rule of law is too important to our country's history and to its future to compromise on that bedrock principle.

Mr. COBURN. Mr. President, I rise today to support the nomination of Judge Michael Mukasey to be Attorney General of the United States. Judge Mukasey is eminently qualified for this position. For almost 20 years he served as U.S. District Judge for the Southern District of New York, presiding over prominent terror trials and gaining familiarity with complex national security issues that continue to challenge our Nation.

Specifically, Judge Mukasey presided over the trial of the ''Blind Sheik,'' who was involved in planning the 1993 World Trade Center bombing. Upon conviction, Judge Mukasey sentenced the terrorist to life in prison. The Second Circuit Court of Appeals, in affirming the verdict, praised Mukasey by saying: ''The trial judge, the Honorable Michael B. Mukasey, presided with extraordinary skill and patience, assuring fairness to the prosecution and to each defendant and helpfulness to the jury. His was an outstanding achievement in the face of challenges far beyond those normally endured by a trial judge.'' Indeed, Judge Mukasey's ruling in the Blind Sheik case presented extraordinary challenges—his ruling drew death threats that required him to receive years of 24-hour armed protection.

Yet Judge Mukasey maintained his objectivity as a judge, ruling years later that while Jose Padilla—a U.S. citizen later convicted of Federal terrorism support charges—could be held by the government as an enemy combatant, he was also entitled to legal counsel. One of Padilla's defense lawyers who said he had ''more cases before Mukasey than I can count,'' praised the judge saying, ''I don't always agree with where he comes out . . . [but] I am always happy to draw him as a judge. You are going to get your day in court.'' Another of Padilla's lawyers said about Judge Mukasey, ''I admire him greatly,'' describing herself as ''another weeping fan.''

Since his nomination, many of Michael Mukasey's colleagues and lawyers who appeared before him have offered statements of praise and support. While it would be impossible to reiterate them all, perhaps former U.S. Attorney Mary Jo White's statement best encapsulates the general sentiment. She said that Judge Mukasey ''is a man of great intellect and integrity with an unswerving commitment to the rule of law. He is independent, fair-minded and has a wealth of relevant experience from his years of service on the bench, in the private sector and as an assistant United States attorney in the Southern District of New York.'' I agree that Judge Mukasey's intellect, integrity, and experience make him uniquely qualified to serve as Attorney General.

It is, however, imperative that our Attorney General put his oath to protect and uphold the Constitution before

all other loyalties. As such, I looked to Judge Mukasey for assurances that he would put the Constitution first. Judge Mukasey gave the first of such assurances on October 5, 2007, the day that he was nominated, when he said, ''The department faces challenges vastly different from those it faced when I was an assistant U.S. attorney 35 years ago. But the principles that guide the department remain the same—to pursue justice by enforcing the law with unswerving fidelity to the Constitution.'' After studying his record and participating in the confirmation process, I am confident that Judge Mukasey's great respect for the Constitution and the rule of law is sincere.

The Justice Department has undergone difficult times of late, but I know Judge Mukasey has the integrity and intellect to carry out the necessary work to restore the American public's trust in the department. America has been well-served by Judge Mukasey's past public service and is fortunate that such an accomplished individual—who entered retirement just one year ago—is willing to answer the call to public service once again. I thank Judge Mukasey for his continued sacrifice.

I am pleased to vote in favor of Judge Michael Mukasey's nomination to be Attorney General of the United States and look forward to working with him in the future.

● Mr. MCCAIN. Mr. President, I am pleased the full Senate today is considering the nomination of Judge Michael Mukasey as Attorney General of the United States. I strongly support his confirmation.

As many of you know, the President nominated Judge Mukasey on September 17; however, the Senate Judiciary Committee did not vote on his nomination until Tuesday. This ranks as one of the longest spans between a nomination and a confirmation vote for an Attorney General nominee. This is particularly unfair to the American people who deserve to have in place a chief enforcer of our Nation's laws.

I believe Judge Mukasey is the right nominee to enforce our laws, particularly during this time of war. As a Federal judge, he presided over one of the country's busiest trial courts and one that has overseen several terrorism-related cases. These included the trial of the terrorist known as ''the Blind Sheikh,'' a man who was convicted of conspiracy to destroy the World Trade Center.

In comprehensive responses to questions posed by members of the Senate Judiciary Committee, Judge Mukasey exhibited mainstream legal views on constitutional checks and balances. He stated that the President cannot waive congressionally mandated restrictions on interrogation techniques, including those included in the ''McCain amendment'' and the Military Commissions Act. This is a particularly important conclusion given that, under these laws, anyone who engages in waterboarding, on behalf of any U.S. Government agency, puts himself at risk of civil liability and criminal prosecution.

Judge Mukasey also, in a separate letter, acknowledged that the interrogation technique known as waterboarding is ''over the line'' and ''repugnant.'' These are important statements, and I expect that they will inform his views as Attorney General. I strongly urge that, in that role, Judge Mukasey will publicly make clear that waterboarding is illegal and can never be employed.

Waterboarding, under any circumstances, represents a clear violation of U.S. law. In 2005, the President signed into law a prohibition on cruel, inhuman, and degrading treatment as those terms are understood under the standards of the U.S. Constitution. There was at that time a debate over the way in which the administration was likely to interpret these prohibitions. Along with Senators WARNER and GRAHAM, I stated then my strong belief that a fair reading of the ''McCain amendment'' outlaws waterboarding and other extreme techniques. It is, or should be, beyond dispute that waterboarding ''shocks the conscience.''

It is also incontestable that waterboarding is outlawed by the 2006 Military Commissions Act, MCA, and it was the clear intent of Congress to prohibit the practice. As one of the authors of that statute, I would note that the MCA specifically prohibits acts that inflict ''serious and nontransitory mental harm'' that ''need not be prolonged.'' Staging a mock execution by inducing the misperception of drowning is a clear violation of this standard. For this reason, during the negotiations that led to the MCA, my colleagues and I were personally assured by administration officials that this language, which applies to all agencies of the U.S. Government, prohibits waterboarding. Many of us share Judge Mukasey's revulsion at the use of waterboarding, and I welcome his commitment to further review its legality once confirmed. I expect that he will reach the same conclusion.

I sincerely hope that the recent public debate over the use and legality of waterboarding is America's last. In discussing this practice, we are speaking of an interrogation technique that dates from the Spanish Inquisition, one that has been a prosecutable offense for over a century, one that was employed by the Khmer Rouge in Cambodia and which is reportedly being used by the thugs in Burma today against the innocent monks protesting their repression. Waterboarding simply has no place in the America I know. Let us take it off the table, once and for all, and move beyond this debate.

There is evil in the world today, and it takes form in those who commit themselves to the destruction of America and the ideals we hold dear. Let us fight them, let us defend America, but let us in so doing never forget that we are, first and foremost, Americans. Make no mistake—we will prevail—but we must wage this war with fidelity to our laws and deepest values. These laws and values are the source of strength, not weakness, for though we are stronger than our enemies in men and arms, we are stronger still in ideals. We will win the war on terror not in spite of devotion to our cherished values, but because we have held fast to them.

Based on the statements and responses that this nominee has provided over the past week, I believe that Judge Mukasey shares this view. He is a consensus nominee, one with a reputation as a rigorous, independent, and honest thinker. I am pleased to offer him our support and I hope that my colleagues will join us in voting for confirmation.●

I yield the floor.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, without losing my right to the floor, I yield to the distinguished Senator from Pennsylvania on his time to ask a question of the Chair.

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

The PRESIDING OFFICER. The Senator from Pennsylvania has 1 hour. The majority has a total time of 1 hour 5 minutes.

Mr. SPECTER. Mr. President, I know of only one additional Senator who wishes to speak in favor of Judge Mukasey, and that request has been limited to 5 minutes. So I ask him to come to the floor or anyone else who wishes to speak on behalf of Judge Mukasey to come to the floor.

If I may consult with my colleague, the distinguished chairman, perhaps we can take an inventory now as to how much time the other speakers will want so we can give our colleagues an idea as to when we will be voting.

Mr. LEAHY. Mr. President, Senators are waiting to be recognized. I ask unanimous consent—the time allotted to me is 20-some-odd minutes—that when he is recognized, the Senator from Vermont, Mr. SANDERS, be recognized for 12 of my 24 minutes. Perhaps while the next Senator is speaking, I will make an attempt to find out how much more time we have so I can report to the Senator from Pennsylvania. I ask unanimous consent that when he is recognized, the Senator from Vermont, Mr. SANDERS, be recognized for 12 minutes of my time.

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

Mr. LEAHY. Mr. President, I reserve the remainder of my time. I yield the floor.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. SALAZAR. Mr. President, I rise today to speak about the nomination of Judge Michael Mukasey to be the next U.S. Attorney General. I come to the floor tonight with a heavy heart

because I had hoped I would have been able to come to the floor and make a statement in support of Judge Mukasey.

I reviewed the answers he gave to the Judiciary Committee and the written responses he gave to important questions, including the question of torture. After reviewing that information, I also met with Judge Mukasey in my office in the Senate office buildings. He was very generous with his time, and I very much appreciate the time he gave me to review some of the fundamental questions.

There is no doubt that Judge Mukasey is a brilliant man, a talented and successful judge who has given a great deal to this country. So it is with a heavy heart that I have reached the conclusion that I cannot and will not support his nomination. I will not support his nomination because there is no room for equivocation on the American position on the fundamental issue of torture. There is no room for equivocation on that issue.

Before coming to the Senate, I had the great privilege of serving as the attorney general of the State of Colorado. For me, it was an enormous responsibility and one which carried many duties. There were duties of making sure that over 10,000 people were put into prison, some of them serving a lifetime in prison. It was an enormous duty in terms of rendering tens of thousands of legal opinions to a vast State agency, and I understood the responsibilities of being an attorney general. Those responsibilities, first and foremost, were to make sure I was upholding the oath of office I had taken to the Constitution of the State of Colorado, to uphold the constitutional laws in my State, and to enforce those laws and to make sure no one was above the law.

I also served as legal counsel to the Governor and to the head of State agencies, where I provided them legal counsel that a lawyer would provide to their client. As attorney general, it was not often that my oath to enforce Colorado's constitutional laws came into conflict with my responsibilities to advise and to serve the Governor. But when it did, it was my duty—it was my solemn duty—to defend the rule of law, not the Governor or the executive agency or the agency heads. On some occasions, driven by that solemn duty to enforce that law, I had to take my own clients to court to enforce the rule of law, and I did that.

The Attorney General of the United States must likewise enforce our laws because very simply we are a nation of laws, and that is what makes us a special place on this globe.

This role today is more important than at any other time in the history of the Justice Department. Trust in the Department is at an alltime low given the high-profile memos that now have become public which enabled torture to occur by the agents of the United States, which allowed for the firing of nine U.S. attorneys and other reports of politicization within the Department of Justice, which should never be politicized because it enforces our laws. Therefore, the next U.S. Attorney General must restore the confidence of the American people that the Justice Department will enforce the law regardless of the Attorney General's personal beliefs or who happens to sit in the Oval Office as President of these United States.

I am troubled that Judge Mukasey is unwilling to clearly and unambiguously state that he will uphold U.S. law barring the use of waterboarding. I explicitly asked Judge Mukasey in my office what he would do as Attorney General if he were asked whether an agent of the United States could use waterboarding in interrogation settings. Judge Mukasey's response to me was disappointing. He said he did not know because it depended on whether there was intent to cause pain. That answer, in my view, is simply unacceptable given the legal history of this issue in this country.

Under Common Article 3 of the 1949 Geneva Conventions, the following acts are prohibited at any time and at any place: First, ''violence to life and person, in particular . . . cruel treatment and torture, and, two, outrages upon personal dignity, in particular, humiliating and degrading treatment.''

The War Crimes Act, as amended by the Military Commissions Act in 2006 by this Congress, prohibits breaches of Common Article 3 of the Geneva Conventions which is defined in that legislation to include ''torture and cruel and inhumane treatment.'' Torture is further defined as:

> The act of a person who commits, or conspires or attempts to commit an act specifically intended to inflict severe physical or mental pain or suffering upon another person.

On October 5, 2005, we in this Chamber passed, by a vote of 90 to 9—only nine Senators in this Chamber voting against the legislation—the Detainee Treatment Act, otherwise known by many of us as the McCain amendment. The amendment states:

> No individual in the custody or under the physical control of the United States Government, regardless of nationality or physical location, shall be subject to cruel, inhumane, or degrading treatment or punishment.

By our most basic human sensibilities, waterboarding, whereby water is forced into the nose, mouth, or lungs of a person to create the sensation that they are drowning and dying, is torture, and it is illegal. The feeling—from those who have spoken about this at length—is one that causes struggle, panic, ingestion of water, vomiting, and psychological trauma.

This truth, Mr. President, that this is torture, has been affirmed by the top lawyers in the Army, the Navy, the Air Force, and Marines, both current and retired. It has been affirmed by my colleagues, by some of my most respected colleagues on the Republican side of the aisle, for whom I have tremendous respect.

Through our history, we have prosecuted those who have used the technique against our own people as criminals of war. When Japanese soldiers waterboarded American prisoners of war in World War II, we convicted them for their crimes. We convicted them for their crimes. When our own soldiers, over 100 years ago, used waterboarding in the 1898 Spanish-American War in the interrogation of Filipino insurgents, they were court-martialed. In Vietnam, U.S. generals declared waterboarding to be illegal and strictly enforced the ban on its use.

Mr. President, I very much recognize the importance of the advice and consent clause of our Constitution, in our working with the President in the consent function that we play with respect to his Cabinet appointments. I have worked very hard for 3 years on many of those confirmations in an effort to develop the kind of cooperation and collaboration that is required. However, Mr. President, there are some fundamental core principles for which we must stand. These principles are tested, no doubt, in the face of violence and war, but it is in these moments when these principles are all the more important. The fact that we do not torture, the fact that we in this Nation do not torture is fundamental to who we are as a people, whether it is in conflict, such as the conflict we are in today, or conflicts that have happened in the past in this Nation.

For me, Mr. President, this is not a complex issue.

Mr. President, I ask unanimous consent for 1 more minute.

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

Mr. SALAZAR. For me, Mr. President, this is not at all a complex issue. It is not open to interpretation or to equivocation. I will say it again: In my view, waterboarding is torture, it is illegal, and it is inhumane. And Judge Mukasey has refused to acknowledge that fact. Mr. President, I cannot, in good conscience, overlook Judge Mukasey's equivocation on torture.

Our laws are clear. We need an Attorney General who will enforce those laws, including the laws against torture, no matter what. Mr. President, I will be voting against Judge Mukasey, and I would urge my colleagues to do the same.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. GRAHAM. Mr. President, I would ask for 5 minutes.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. GRAHAM. And I thank the Senator from Vermont. I appreciate that.

Mr. President, I will be voting for Judge Mukasey because I think he is the solution, not the problem. My good friend from Colorado made a very eloquent statement, and I respect him

greatly. This has been a good debate, and it has been long overdue.

Where do we go, and how do we get there? What do we want to do to fight this war? What is in bounds, what is out of bounds? It is very tough, America. We are fighting a vicious enemy, one not in uniform, and one that will do anything to wreak havoc on this world; an enemy that would kill a child in a heartbeat and not think about it, in the name of God. So we have a real task ahead of ourselves, very difficult, and we have a great military.

My question for my colleagues is, the fact that our military would do the things that Senator SALAZAR said, consciously take waterboarding off the table, does that make us weaker? I don't think so. I go to bed at night feeling pretty good about America when our military lawyers come before the Congress and say: We don't do that. We don't do that.

Now, what does our enemy do when they capture one of our soldiers? We all know. They are brutal. They are horrible. The fact we don't cut their heads off, is that a sign of weakness? The fact that we will give them a lawyer when they won't give us one; that we will base our judgments on evidence, not revenge and hatred, does that make us weaker? No.

The ticking time bomb is not the scenario of a terrorist who may possess some special knowledge. The ticking time bomb is a world that is losing its way. There is no shortage of people who will cut your head off in this world. There is a shortage of people who will stand up for a better way. We know what bad people will do to good people. The question is, what do good people do to bad people?

We are good people, and we are struggling. And I think Judge Mukasey is part of the solution. He has lived a good life in the law, and he has been asked a question about solving a problem not of his making.

If I thought, I say to Senator SALAZAR, he really believed that waterboarding, at the end of the day, was the legal way to do business, I wouldn't vote for him. He is in a bind. He can't answer that question. But he will one day because I have asked him. And he doesn't have this theory of the law that there is only one branch of Government in a time of war that has been pushed by this administration to the point of being absurd.

He is a mainstream legal thinker. He answered my question that there is no power given to the President, inherent or otherwise, to avoid the Geneva Conventions obligations of this country or to set aside the McCain amendment. That was music to my ears. He is bound.

The question for us, as we have been a part of the conventions for a long time, and we have led the world for a long time by being different from our enemy, do we reserve to our Executive in those special circumstances the right to set the conventions aside? You see, we are threatened by someone out there who has no boundaries, a group that has no boundaries. So do we reserve to ourselves the ability to treat them any way we want to because the means justifies the end?

Well, let me tell you what will happen if we go down that road, and where we will wind up. What will we say to the Chinese Communist dictator who waterboards the Christians because they are threatened by the Bible? What do we say to people in China who will torture the Buddhist monk because they are threatened by a humble, decent religion? What do we say in Venezuela? What do we say anywhere in the world when people who feel threatened use horrible tactics simply because they are threatened?

This is a good man of the law, Judge Mukasey. Over time, Senators SCHUMER and FEINSTEIN will be shown to have done the country some good—a lot of good. And to those who cannot vote for Judge Mukasey because he didn't answer this question as directly as you would like, I understand. But we are about to fix a problem in the Justice Department that needs to be fixed, and we are going to have an honest, good debate about how to win this war.

I can tell you right now, the only way we will win this war is not just by killing because this is not about how many of them we can kill. That is an endless number. This is not about a capital to conquer, an air force to shoot down, or a navy to sink. This is about ideas. Our way of living is better than theirs, only if we will have the courage and the common sense to embrace it and not be afraid to be good in a time where there is evil.

God bless you.

The PRESIDING OFFICER. The Senator from Vermont is recognized for 12 minutes.

Mr. SANDERS. Let me thank my colleague from Vermont, Senator LEAHY, for yielding, and applaud him for the role he is playing on the Judiciary Committee.

Mr. President, several weeks ago, I informed the citizens of Vermont that I would be voting against the confirmation of Judge Mukasey to be Attorney General, and tonight I am going to, in fact, be casting a ''no'' vote.

Mr. President, there are several reasons I will vote no on Judge Mukasey. First, like many of my colleagues, I was deeply disturbed by his response to the question of waterboarding. He apparently does not know whether waterboarding is torture. Well, millions of Americans know waterboarding is torture. People all over the world know waterboarding is torture. The Geneva Conventions are quite clear about waterboarding being torture. And, frankly, I don't think it is too much to ask for us to have an Attorney General who knows waterboarding is torture. That is one reason I am voting against Judge Mukasey, but there is a second reason, and perhaps maybe an even more important reason.

For the last 6 years, it is clear that we have had a President who does not understand what the Constitution of the United States is about. What this President believes, essentially, is that he can do anything he wants, at any time, against anybody in the name of fighting terrorism. And he happens to believe the war on terrorism is unending. It is going to go on indefinitely. I think it is very important that we have an Attorney General who can explain the Constitution to a President who clearly does not understand it. Unfortunately, Mr. Mukasey is not that person.

In the last 6 years under President Bush, we have seen the National Security Agency start a program which allows wiretapping without first obtaining a court order, to my mind, in violation of the Constitution. We have seen personal records that have been extensively mined for data. How many millions? Who knows? Nobody in the Senate really knows. We don't have access to that information. It is massive amounts of data mining, in clear violation of the privacy rights and the laws of America under this President.

We have seen the phenomenon of extraordinary rendition, which has shifted detainees to prisons in countries abroad which allow torture. We have seen the firing and the politicization of the Office of the U.S. Attorney. We have seen detainees of the United States being denied the oldest right in the Western legal system—the right to habeas corpus. We are running a prison camp in Guantanamo where prisoners have minimal legal rights, which is an international embarrassment for us as we struggle against international terrorism. And we have seen many other assaults by this President on our constitutional rights and on the laws of this country.

We have a President who clearly does not understand the separation of powers; that the Congress of the United States is an equal branch of our Government; that the Judiciary is an equal branch of our Government; that the executive branch does not have all of the power.

A little while ago I was on a statewide TV program in Vermont. Somebody called in and they said: When is Congress going to begin to stand up to this President?

That is a good question, and I didn't have a good answer. But what I can tell you, the time is long overdue for us to begin to stand up to this President, who thinks he can veto virtually every piece of legislation we send him, who ignores the Constitution of this country—I think it is time we begin to stand up.

I have heard some of my colleagues say, if we reject Mr. Mukasey, the President is not going to send us another nominee. That is the right of the President of the United States. But we have our rights as well. We have the right to demand an Attorney General

who supports, strongly, the Constitution and is prepared to tell the President when he is acting against our Constitution. That is our right. It is about time we began to defend our right.

I can't blame the President for taking over the rights of Congress, if Congress is not prepared to stand up and fight back. I think that time is long overdue.

Mr. President, if you do not want to send us another nominee, that is your right. We have our rights as well. I will be voting against Mr. Mukasey. I hope my colleagues do as well.

In conclusion, I ask unanimous consent that letters of opposition and concern from the American Civil Liberties Union, the Leadership Conference on Civil Rights, and Common Cause be printed in the RECORD.

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

AMERICAN CIVIL LIBERTIES UNION,
Washington, DC, November 5, 2007.

Re Nomination of Michael Mukasey for Attorney General

Hon. PATRICK LEAHY,
Chairman, Committee on the Judiciary, U.S. Senate, Washington, DC.

Hon. ARLEN SPECTER,
Ranking Member, Committee on the Judiciary, U.S. Senate, Washington, DC.

DEAR CHAIRMAN LEAHY AND SENATOR SPECTER: The American Civil Liberties Union strongly urges you to oppose moving the nomination of Judge Michael Mukasey for Attorney General out of the Judiciary Committee unless he states that waterboarding and other extreme interrogation tactics are torture, within the meaning of federal law, and commits to the full enforcement of federal laws against torture and abuse. This commitment is important for two reasons: (1) to ensure that the federal government stops, and does not resume, the use of torture and abuse in interrogations; and (2) to have the next attorney general committed to investigating and, if appropriate, prosecuting persons who authorized or committed torture or abuse.

Mukasey's unwillingness to answer questions on whether waterboarding and similar practices are torture undermines the rule of law and threatens the security of Americans. In response to questions from members of the Judiciary Committee, Mukasey not only refused to state whether waterboarding is torture when authorized by or committed by the federal government, but he also refused to say whether it is illegal for foreign countries to commit acts such as waterboarding, electric shocks, beatings, head slaps, and induced hypothermia on Americans.

Federal law is clear that waterboarding and all other forms of torture and abuse are illegal. The Anti-Torture Act criminalizes the use of torture; the War Crimes Act criminalizes the use of torture and abuse against detainees protected by the Geneva Conventions (which includes alleged Taliban and al-Qaeda detainees); the McCain Amendment of the Detainee Treatment Act reaffirms the prohibition in the U.S.-ratified Convention Against Torture against the use of torture and cruel, inhuman, and degrading treatment; the U.S.-ratified Convention Against Torture prohibits all torture and cruel, inhumane, and degrading treatment, and general criminal laws such as federal statutes criminalize conduct such as assaults by or against Americans in federal facilities. These laws reflect American values, all in statutes or treaties enacted or ratified under presidents ranging from Ronald Reagan to George W. Bush.

However, Mukasey refuses to answer the straightforward question of whether waterboarding is torture, and thereby illegal. In a four-page response to ten members of the Committee, Mukasey describes how he would decide the question of whether waterboarding is torture, but he states the question is ''hypothetical'' and that ''the actual facts and circumstances are critical.'' The actual facts and circumstances of waterboarding are brutal, but fairly simple. Several senators described to Mukasey all of the elements of waterboarding, as practiced over the centuries by dictatorships, rogue nations, and war criminals—and as prosecuted by the United States against war criminals. Mukasey has the law, including the Anti-Torture Act and the War Crimes Act, and all of the facts before him. After decades as a Federal prosecutor and Federal judge, Mukasey certainly has the capacity to answer the question of whether waterboarding is torture.

In addition to undermining American values, Mukasey's unwillingness to answer the question on whether waterboarding is torture could threaten the security of Americans overseas. In a little-noticed question-and-answer, Senator Kennedy asked Mukasey, ''Do you think it would be lawful for another country to subject an American to waterboarding, induced hypothermia or heat stress, standing naked, the use of dogs, beatings, including head slaps, or electric shocks?'' Mukasey responded with his stock response that he cannot answer hypotheticals, and that ''the actual facts and circumstances are critical.'' This response was to a question on whether it was illegal for a foreign country to shock, beat, and waterboard an American citizen. The response provides no assurance to American servicemen and servicewomen and American intelligence personnel that the United States will demand protection for them against foreign torturers.

This line of questioning is not hypothetical. The use of waterboarding and other forms of torture was reportedly discussed and approved based on discussions that occurred at the highest levels of government, including participation by aides to the President and Vice President. The result was authorization of specific forms of torture and abuse, and a permissive climate that fostered even more torture and abuse. Federal Government documents obtained by the ACLU through our Freedom of Information Act litigation and reports of the International Committee of the Red Cross documented torture or abuse against U.S.-held detainees, including acts such as soaking a prisoner's hand in alcohol and setting it on fire, administering electric shocks, subjecting prisoners to repeated sexual abuse and assault, including sodomy with a bottle, raping a juvenile prisoner, kicking and beating prisoners in the head and groin, putting lit cigarettes inside a prisoner's ear, force-feeding a baseball to a prisoner, chaining a prisoner hands-to-feet in a fetal position for 24 hours without food or water or access to a toilet, and breaking a prisoner's shoulders.

Mukasey's equivocal responses to these questions on waterboarding and other forms of torture and abuse reveal a more fundamental and troubling problem with his views on the scope of executive power—not only on torture—but on government spying as well. Under the theory of executive power Mukasey espoused, any restrictions on government spying that Congress passes may be meaningless, since Mukasey believes the president has power to engage in domestic wiretapping without a warrant and outside the law. If an Attorney General, whose mission is to enforce the law, believes the President has the power to disregard the law, our constitutional balance of powers is in peril.

A forthright answer to a question about torture is so fundamental to restoring the rule of law that the Judiciary Committee should not move Mukasey's nomination out of committee unless he states that waterboarding and other extreme interrogation tactics are torture. American values and American security both depend on his answer.

Thank you for your attention to this matter, and please do not hesitate to call us if you have any questions regarding this issue.

Very truly yours,

CAROLINE FREDRICKSON,
Director.

CHRISTOPHER E. ANDER,
Legislative Counsel.

WASHINGTON, DC,
November 5, 2007.

Hon. PATRICK J. LEAHY,
Chairman, Committee on the Judiciary, U.S. Senate, Washington, DC.

Hon. ARLEN SPECTER,
Ranking Member, Committee on the Judiciary, U.S. Senate, Washington, DC.

DEAR CHAIRMAN LEAHY AND RANKING MEMBER SPECTER: On behalf of the undersigned organizations, we write to express our opposition to the confirmation of Judge Michael B. Mukasey to the office of Attorney General. At his hearing and in his responses to written questions, Judge Mukasey refused to condemn waterboarding as torture, endorsed broad assertions of executive authority, and failed to make firm commitments to the enforcement of civil rights. For these reasons, we are compelled to oppose his nomination.

What is urgently needed in our next Attorney General is an unequivocal commitment to thoughtfully and independently uphold the rule of law. However, on human and civil rights issues, it is difficult to distinguish Judge Mukasey's views from the controversial views of this Administration. It seems certain that, after his careful avoidance of making commitments that might be antithetical to the Administration's interests, Judge Mukasey is either unwilling to exercise the independence we need in our next Attorney General on critical issues, or his views align perfectly with those of the President.

On the issue of interrogation techniques, Judge Mukasey acknowledged that the law holds that torture is unlawful, but declined to state whether waterboarding is torture. Waterboarding, a technique defined as the use of a wet towel to induce the misperception of drowning, has been declared unlawful by all four current Judge Advocate Generals of our armed services. Judge Mukasey's condemnation of this technique as ''repugnant,'' while true, is inconsequential; what counts is his legal opinion of whether the practice is torture. In spite of the fact that waterboarding is widely classified by military officials and human rights experts as unlawful torture, Judge Mukasey refused to answer this question directly.

Judge Mukasey further endorsed a view of executive authority that greatly expands the power of the President at the expense of the other branches of government. Judge Mukasey suggested he would allow the President to engage in warrantless surveillance of persons in the United States in violation of congressional laws. Indeed, he outlined a view of the Constitution that privileged the view of the executive branch over that of Congress on matters of constitutional interpretation, making it possible for the President to disregard the laws of Congress based on the President's constitutional judgment.

In fact, under this view, the President's failure to enforce a congressionally-enacted law would prevent the courts from ever having an opportunity to weigh in, making the President the final arbiter of constitutionality of our laws.

Finally, with respect to questions regarding how he would improve civil rights enforcement, Judge Mukasey offered platitudes, but no firm commitments. Civil and voting rights enforcement have been low priorities within the Department of Justice, making it especially important that the next Attorney General have a thorough understanding of our civil rights laws and be committed to the vigorous and unbiased enforcement of those laws. Judge Mukasey failed to offer solutions to the extremely low number of cases brought by the Civil Rights Division on behalf of women and minorities in employment discrimination cases. On an issue as central to the civil rights community as voting rights, Judge Mukasey would not commit to the straightforward proposition that a voter identification requirement that disproportionately impacts minorities could violate Section 2 of the Voting Rights Act. His responses to questions concerning civil and voting rights enforcement evidenced little understanding of the problems that currently plague the Civil Rights Division.

Nowhere is the Senate's constitutional role in reviewing a presidential cabinet nominee more important than in the case of a prospective Attorney General. Judge Mukasey has failed to deliver on the expectation that he would be willing to challenge this Administration's widely condemned human and civil rights policies. As a result, there is serious doubt about his suitability for the position of Attorney General and about the impact his tenure would have on civil and human rights in this country and elsewhere. Thus, we must urge you to not confirm Judge Mukasey.

Thank you for your consideration. If you have any questions, please feel free to contact LCCR Vice President and Director of Public Policy Nancy Zirkin or LCCR Counsel and Policy Analyst Paul Edenfield.

Sincerely,

Leadership Conference on Civil Rights.
AFL–CIO.
AFSCME.
American-Arab Anti-Discrimination Committee (ADC).
Asian American Justice Center.
Global Rights: Partners for Justice.
Human Rights First.
International Union, United Auto Workers.
National Association for the Advancement of Colored People (NAACP).
National Fair Housing Alliance.
National Urban League.
Open Society Policy Center.
People For the American Way.
Service Employees International Union (SEIU).

COMMON CAUSE,
Washington, DC, November 5, 2007.

Senator PATRICK LEAHY,
Chair, Senate Committee on the Judiciary, Washington, DC.

DEAR SENATOR LEAHY: Common Cause believes that it would be a serious mistake for the Senate Judiciary Committee to confirm Judge Michael Mukasey's nomination as attorney general to replace Alberto Gonzales.

In his nomination hearings before the Senate Judiciary Committee, Judge Mukasey provided evasive answers to critical questions about whether ''waterboarding'' is torture, feigning ignorance of the well-known procedure and dodging the question when it was defined for him.

An attorney general's first job is to protect the rule of law, not to protect a President. We have just seen the damage caused when an attorney general places partisan loyalty above law. The country cannot withstand more of such disregard for the rule of law.

As the Committee knows—and now the American public knows too well—waterboarding has been an infamous form of torture dating back as far as the Spanish Inquisition. The United States has both prosecuted waterboarding as a war crime when used against our soldiers and court marshaled a U.S. military officer who used it against our enemies, George Washington University Professor Jonathan Turley wrote last week.

Senator Charles Schumer (D–NY) stated that in conversations with Judge Mukasey as late as Friday, Judge Mukasey assured him that Congress could pass a law banning waterboarding and other forms of torture and the President would have absolutely no authority to ignore such a law. But, under the Geneva Convention, adopted by the United States as law, it is already against the law to use waterboarding.

Judge Mukasey's disingenuous responses about torture shows a contempt for Congress and a disturbing willingness to turn his back on the law when the alternative—acknowledging illegal torture—could have troubling implications for the President who nominated him.

This is unacceptable from a nominee to America's top law enforcement position. And it is equally unacceptable for the United States Congress to turn its back on its constitutional duty.

Judge Mukasey's non-answers on torture do not stand alone. We are equally concerned about his equivocations on the President's power to conduct a secret program of warrantless wiretapping, despite laws duly enacted by Congress and protections afforded to all Americans by the Constitution.

It is the hope of the nation that a new attorney general will be a fresh start for the Justice Department that Gonzales tarnished through his partisanship and left in tatters. That hope cannot be served by a nominee who begins by dissembling over what the law is in order to protect the Administration and the Justice Department from possible unpleasant ramifications even before he has been confirmed. It is difficult to see how such a nominee could repair the integrity and reputation of the Justice Department, heighten sagging morale or stem the exodus of career professionals fleeing that agency.

Common Cause believes this is one of the most urgent issues of our day: a President who usurps greater and greater powers without regard for the law or Constitution, and a Congress that stands idly by and lets it happen. Common Cause took a stand when the actions of President Nixon threatened to unravel America's democracy, and we take the same stand now.

The American people are watching what you do this week. The whole world is watching. We need you to demand respect for the rule of law, the Constitution, and the role of the United States as a reliable world partner dedicated to international justice. It is up to you to restore voters' confidence in the vitality of America's democracy. And it is up to you to safeguard our troops abroad, who become more vulnerable to torture when we condone it.

Common Cause urges you to stand firm and vote against the confirmation of Judge Mukasey as our next attorney general. We urge you to turn the tide on abuse of executive power and show America that they can depend on you to defend the Constitution and the rule of law.

Sincerely,

BOB EDGAR,
President and CEO.

The PRESIDING OFFICER. Who yields time?

Mr. HARKIN. Mr. President, how much time do I have?

The PRESIDING OFFICER. The Senator from Iowa has 10 minutes.

Mr. HARKIN. Mr. President, despite the many positive attributes of Judge Mukasey, I cannot support his nomination for Attorney General. The next Attorney General must be more than a capable steward of the Department of Justice. I have heard a lot about that, that he can run it well.

Given this administration's disdain for the rule of law, it is imperative the next Attorney General be a strong and independent voice for a return to the very basic principle that we are a government of laws and not of the King—the President. Regrettably, I do not believe Judge Mukasey will be that voice.

Over the last 6 years, this administration, supported by faulty legal opinions from the Justice Department, has claimed it can ignore acts of Congress. The President has argued that, despite the fact that since 1978 the Foreign Intelligence Surveillance Act has been the law of the land, he, the President—he has the authority, he says, despite the law, to eavesdrop on American citizens without a warrant or judicial review. He, the President, believes—the President, the King—he can seize American citizens on American soil, indefinitely detain them without charges, without providing the accused access to counsel, without judicial review. He—the President, the King—believes he can utilize interrogation techniques long considered immoral, ineffective, and illegal, regardless of the laws and treaties Congress has approved.

As Justice Sandra Day O'Connor wrote, however, ''[a] state of war is not a blank check for the President when it comes to the rights of the nation's citizens.''

At a time when we sorely need an Attorney General who will stand up for the rule of law, Judge Mukasey has expressed a troubling view of unchecked Executive power. For example, Judge Mukasey asserted that the President can violate congressional statutes where the President claims broad authority to ''defend the Nation.'' That is a loophole big enough to drive anything through. Judge Mukasey refused to answer whether he believes American citizens, detained by the President, have the right to habeas corpus, a right that goes back to 1215; the Magna Carta, articles 38 and 39 of the Magna Carta. You go read it. It says the King can't pick you up and throw you in jail and hold you there unless it is supported by evidence and testimony from your peers. That is the right of habeas corpus, enshrined, article I, section 9 of our Constitution. Mukasey refused to answer whether he believes American citizens have the right to habeas corpus when they are detained by the President.

Similar to many of my colleagues—the Senator from Vermont and the

Senator from Colorado talked about this—I am deeply troubled by the judge's failure to assert that waterboarding is illegal, a process that simulates death by real drowning. Everybody is focused on waterboarding. Sadly, he also refused to answer that other terrible practices which this administration has used are illegal. These include electrical shocks, beatings, the use of dogs, forcing prisoners to stand naked, induced hypothermia. Judge Mukasey doesn't know—he doesn't know whether these are illegal. Imagine that.

Let there be no misunderstanding. Whether waterboarding is illegal is not a difficult question. This Senate has repeatedly stated it, going back at least to the ratification of the Geneva Convention in 1955, that torture is a violation of our highest values and simply not permitted. In 2005, we adopted the McCain amendment, 90 to 9, 90 votes to 9. The amendment stated that cruel, degrading or inhuman treatment of detainees was prohibited.

Last year, the Military Commission Act expressly made clear that the President is bound by the prohibitions against cruel, inhuman, and degrading treatment of prisoners. Yet Judge Mukasey says he doesn't know. He can't determine whether waterboarding is illegal because he has not seen the evidence. He has not seen the classified material.

You don't need classified material. You don't need any classified material on this.

RADM John Hutson, former Judge Advocate General of the Navy, testified that, ''other than, perhaps the rack and thumbscrews, waterboarding is the most iconic example of torture in history.'' He added, ''[I]t has been repudiated for centuries.'' Going back to the Spanish Inquisition and including World War II, the U.S. military has brought charges against those who practice this technique. In adopting the Military Commission Act, many Senators made clear that interrogation techniques such as waterboarding are illegal and constitute ''grave breaches'' of the Geneva Conventions.

Given this law, given the history, it is disappointing that an esteemed judge, with the highest reputation in our legal community, would not unequivocally state that, of course, waterboarding is both torture and it is illegal. It wasn't a difficult question. It is a question any serious candidate for Attorney General should answer. Because he could not answer it, he is not qualified to be Attorney General.

Are we going to have another Attorney General who is going to kowtow to the King—the President—I am sorry, I get those terms kind of confused when I am talking about Bush. I don't know whether he is King or President. According to the last Attorney General, he was King. Maybe this one believes the same thing. He can do whatever he wants to. But even in 1215, the King of England was held to the standard of habeas corpus. I guess we want to turn the clock back to before the Magna Carta.

I am also troubled by Judge Mukasey's refusal to commit to recommend to the President that the detention center at Guantanamo Bay be closed. He said, ''There are substantial problems with Guantanamo, both problems of reality and problems of perceptions.'' If he believes that, why wouldn't he join with Secretary of Defense Gates and former Secretary of State Colin Powell in recommending that it be closed?

I have a petition, signed by more than 1,000 people from around the United States, urging that our next Attorney General be committed to closing down the detention facility at Guantanamo Bay.

I ask unanimous consent it be printed in the CONGRESSIONAL RECORD.

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

TEXT OF PETITION

Revelations of human rights abuses at the prison at Guantanamo Bay have damaged America's reputation and impeded our efforts to fight terrorism.

By continuing to isolate detainees on Guantanamo Bay without bringing charges against them, we have forfeited our moral leadership and hindered our ability to rally support in our fight against terrorism. Closing this facility is our single best opportunity to rally our allies in a more effective fight against terrorism and reduce the risk to Americans traveling abroad.

Mr. HARKIN. Mr. President, issues such as torture and Guantanamo Bay, I have to admit, are somewhat personal to me. It was 20-some years ago—I am sorry, 37 years ago, now that I think about it, 1970—when I was a congressional staffer on the House side, for a committee that went to Vietnam to investigate our involvement in the war in Vietnam. During that trip over, through a series of circumstances and because of the bravery of a couple of young people, I was able, with two Congressmen—Congressman ''Gus'' Hawkins from California and Congressman Bill Anderson from Tennessee—to uncover the infamous tiger cages on Con Son Island off the coast of Vietnam.

What did we find there? Inhuman, degrading, terrible conditions, where the Vietnamese had imprisoned civilians—students, human rights activists, along with North Vietnamese POWs—being tortured almost on a daily basis. It would take me more time than I have this evening to be able to describe to you the horrors we saw when we broke into this prison. It was all done with the full knowledge and consent and supervision of the U.S. Government. That is proven. That is on the record. It is on the record.

I saw the damage that it did, what that did to us. We were always saying to the North Vietnamese: Treat our prisoners according to the Geneva Conventions, when our colleague JOHN MCCAIN was there, and others. Yet we were doing the same thing in Vietnam. If you want to go into the court of world opinion, you better go in with clean hands; the court of equity. What we are doing now in Guantanamo covers all that up. It does damage to our reputation. It makes us like them.

The one thing we proved in the 1950s when Joseph McCarthy stood on the floor of this Senate—one thing we proved then is we did not have to be like the Communists to beat them. We don't have to be like the terrorists to beat them. The more we are like them the more likely we are to lose. We need an Attorney General of the United States who has the guts to stand before the committee and say he is going to tell the King that the King is wrong, and this Attorney General nominee will not do that.

Oh, he may run a good department. Oh, he may do all the right things. But we need an Attorney General to tell this King he is wrong and that the rule of law will apply and the rule of law says we will not torture. We will not treat people with inhumane treatment. We will abide by the Geneva Conventions. We will not be like our enemies.

That will send a stronger signal to the world than anything else we could do. For those reasons I, in good conscience, cannot in any way support this nominee for Attorney General.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

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

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

Mr. SPECTER. Mr. President, I ask the Senator from Connecticut how much time he would like.

Mr. LIEBERMAN. Up to 5 minutes.

Mr. SPECTER. I yield 5 minutes to Senator LIEBERMAN, then Senator MCCONNELL, the Republican leader, will speak.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. Mr. President, I thank my friend from Pennsylvania. I have spoken before on the Senate floor about the nomination of Judge Michael Mukasey to be our next Attorney General. I can be brief.

I have listened to my colleagues. I respect what they have said. I have listened to those who have spoken against Judge Mukasey's nomination. I am compelled to rise and speak because, with all respect, based on knowing this man for 43 years, I believe people are not treating him fairly who are contemplating voting against him.

I respect the opinions that have been stated. But based on this long knowledge of this good man, I think he deserves to be confirmed by the Senate by a very strong vote. I met Michael

Mukasey when we first arrived together at law school—the same law school, Yale Law School.

As I have said on the Senate floor before, the young man I met then—smart, sensible, honorable, good sense of humor—is very much the same man who has been nominated by President Bush to be our next Attorney General, except, of course, that he is older and wiser and has had extraordinary experiences as an attorney in private practice, as a very successful assistant U.S. attorney, as a Federal judge respected by all who came before him, and now, in really a twist of fate, having retired from the bench, gone back to private practice, he comes to the attention of President Bush and is nominated as Attorney General.

He carries with him all the attributes one would expect and want of an Attorney General. I would add this: He is exactly the right person to be Attorney General at this moment in our Nation's history, after the travails the Department has been through, the accusations of excessive political interference there, the questions about the judgment of the previous Attorney General. I cannot think of a nominee for Attorney General who will be more independent of the President nominating him than Michael Mukasey in a long time.

Think about it. President Kennedy nominated his brother. President Carter nominated Griffin Bell, his attorney and close friend from Atlanta. President Reagan nominated his own lawyer, William French Smith, to be Attorney General, and so on. President Bush and Michael Mukasey, as far as I know, did not know each other before his consideration for this position. But he impressed the President based on his experience, his knowledge, his record; particularly his record in dealing with difficult cases regarding terrorism.

He has the integrity, the sound legal judgment, and the tremendous work ethic to raise this Department up to where we need it to be, to raise the morale of the employees of the Department.

If you look at the whole record of his experience, it seems to me, as I have listened to my colleagues who are opposing him, they are in large part expressing their opposition to the administration, to the judgments made by the previous Attorney General, and not being fair to this nominee.

Judge Michael Mukasey is a man of the law. He is not a man of politics. If he was a man of politics, he would have said waterboarding is illegal because he knew that is what many Members of the Senate wanted him to say. But he did not believe, as a matter of law, as a man of law, that he was justified in saying that.

I hope all my colleagues have read Judge Mukasey's response to the letter that was sent to him by the chairman of the Judiciary Committee and other members on this question of waterboarding because it tells you who Judge Mukasey is and what kind of Attorney General he will be. It is a reasoned opinion. It is a straightforward opinion. It is an opinion based on law.

He says waterboarding to him personally is repugnant. He says, he opines, as a matter of law, that waterboarding done by employees of the Department of Defense is illegal. I have not heard that enough in this debate. He says that explicitly in this letter. Why? Because the law says it is illegal.

The Detainee Treatment Act refers to the field manual of the Department of Defense, and that field manual said waterboarding is illegal; therefore, Judge Mukasey says waterboarding is illegal.

But then he says: I cannot say that for other employees of the Federal Government, particularly employees of the intelligence community, because there is no law that says that. And I would have to have the evidence of what it is, the previous legal opinions to do so. So he answered as a man of law, not a man of politics.

He is extremely well suited to be the Attorney General America needs now. I say this based on long knowledge of this man and his record. He ought to be confirmed overwhelmingly.

I regret that appears not to be what will happen. But I take some comfort from the fact that he will be confirmed. I am confident those who are his detractors today will become his admirers over the next year and a half as he conducts himself as the Attorney General of the United States.

Mr. MCCONNELL. Mr. President, I am pleased that today, 7 weeks after he was nominated, the Senate will finally vote on the confirmation of Judge Michael Mukasey to be our Nation's 81st Attorney General.

Judge Mukasey's nomination is the culmination of a process in which the President was extremely solicitous of the views of the Democratic majority. In fact, it's hard to imagine how he could have been any more bipiartisan with respect to this nominee. Just to recap:

Our Democratic friends did not want the former Attorney General to continue in office. Well, he has resigned.

Our Democratic colleagues wanted to be consulted on whom the next Attorney General should be. Well, the administration consulted extensively with them.

Our Democratic colleagues said that if the ''President were to nominate a'' conservative ''like a Mike Mukasey,'' he ''would get through the Senate very, very quickly.'' Well, the President did not nominate someone ''like'' Mike Mukasey; he nominated Mike Mukasey himself. And the President received widespread acclaim for choosing a ''consensus'' nominee.

So it is apparent that the President acted in a very bipartisan fashion. Did our Democratic friends reciprocate? Let's review the record:

First, they held up the nomination for weeks before even scheduling a hearing, a failure to act which the Washington Post termed ''irresponsible.''

Then, despite the fact that Judge Mukasey testified for 2 days and answered over 250 questions, our Democratic colleagues asked him an additional 500 written questions. By contrast, Attorney General Reno did not receive any written questions until after she was confirmed.

Then it took our Democratic colleagues over 2 weeks to schedule a markup. Again, by contrast, the Judiciary Committee marked-up Attorney General Reno's nomination on the very same day it finished her hearings.

By the time the Mukasey nomination was marked-up, this ''consensus'' nominee had somehow become ''controversial.'' How did this happen? The answer is that Judge Mukasey fell victim to the politicization of the confirmation process, just like another recent nominee who suddenly became ''controversial.''

Both Leslie Southwick and Michael Mukasey were nominated because they were consensus candidates:

Judge Southwick previously had been unanimously approved by Democrats on the Judiciary Committee.

And Judge Mukasey had been repeatedly recommended by a Democratic member of that committee, not just for a 15-month stint as Attorney General but even for a lifetime position on the Supreme Court.

Judge Southwick was suddenly deemed controversial because of two opinions out of 7,000. He didn't write either of them and at any rate, both opinions existed when the Judiciary Committee earlier approved him to another lifetime Federal judgeship.

And Judge Mukasey suddenly became controversial because of one question out of the 750 oral and written questions he was asked. That one question was whether waterboarding terrorist killers legally constitutes torture in all applications, regardless of circumstances and regardless of how many American lives might hang in the balance.

Well-known members of the vast Right Wing Conspiracy, like Professor Alan Dershowitz of Harvard Law School and Stuart Taylor of National Journal, say the answer to that question is no. But Judge Mukasey didn't say anything even close to that. He was far more reserved.

Rather, Judge Mukasey promised to bring his trademark thoughtfulness to bear in answering this question, and swore that he would rather resign than countenance any illegality. In doing so, Judge Mukasey answered the question the way his Chief Recommender, our friend, the senior Senator of New York, said it ought to be answered, namely, ''carefully.''

Specifically, in 2004, Senator SCHUMER implored us to be ''reasonable'' and not get into ''high dudgeon'' about the issue of torture. He noted:

There are probably very few people in this room or in America who would say that torture should never, ever be used, particularly if thousands of lives are at stake.

Our friend from New York noted that it is easy to ''sit back in the armchair'', as he put it, and demagogue the issue. But ''when you're in the foxhole,'' as he described it, ''it's a very different deal.''

Senator SCHUMER said he respected ''the fact that the President is in the foxhole every day. So he can hardly be blamed for asking'' his Attorney General or his White House counsel or the Defense Department ''to figure out when it comes to torture, what the law allows and when the law allows it and what there is permission to do.'' But, our friend from New York correctly cautioned, the legal analysis has ''to be done carefully.''

Judge Mukasey applied just such a careful analysis to this legal question. And an important part of carefulness, of course, is not to prejudge the legality of an intelligence program that one is not read into, and that concerns interrogation techniques that, even if used, are classified.

But despite the fact that Judge Mukasey answered the question in the same thoughtful manner that our friend from New York noted it demands, and despite the fact that Judge Mukasey was much more reserved in his pronouncements than Professor Dershowitz, this once-consensus candidate is now controversial. If my Democrat colleagues vote against Judge Mukasey because of his comments on waterboarding, it must mean they also would vote against Professor Dershowitz and Senator SCHUMER if they were nominated for Attorney General.

I have a hard time believing that my Democratic colleagues would vote against Professor Dershowitz's nomination to be Attorney General. And I have an even harder time believing that our colleagues would vote against Senator SCHUMER if he were nominated to this position.

In conclusion it should not have taken nearly this long to process Judge Mukasey's nomination. I am glad that tonight, almost 2 months after he was nominated, the waiting will finally end, and that Judge Mukasey will soon get to work at the Justice Department, the thing our Democratic colleagues said they wanted all along.

The PRESIDING OFFICER. The majority leader.

Mr. REID. Mr. President, I yield back the time of the majority except for the statement I am going to give.

Mr. LEAHY. Mr. President, parliamentary inquiry: Is there still time reserved to the Senator from Vermont?

The PRESIDING OFFICER. Yes, there is.

Mr. LEAHY. How much?

The PRESIDING OFFICER. Ten minutes.

Mr. LEAHY. I don't want to interfere with the majority leader, but I am not about to yield back that time, if I might mention for a moment, and then I will yield it back so he may speak, I hate to see records made on this floor that bear absolutely no relationship to the facts. The suggestion was made that there was one question on waterboarding out of hundreds of questions and that created the problem. Unlike Senators who may have spoken that way, I was there. I was there through the whole hearing on the first day. I was there through the whole hearing on the second day. I am probably the only Senator, other than possibly Senator SPECTER, who was there for every bit of it. There were several questions on this issue. In fact, the reason that as chairman I had a second day of hearings is because of some of the questions that were raised on the first day of hearings. I took the transcript and read it during that night because of it. There were questions on executive privilege, but there were questions on waterboarding.

Contrary to suggestions which seem to be more for political cover by some who may want to vote one way or the other, we do not need a new law on waterboarding. President Teddy Roosevelt did not need a law on that to find people had violated our laws 100 years ago. We did not need a new law on the question of waterboarding to prosecute Japanese war criminals for waterboarding Americans. We have not needed it at all. It is against the law. We do not need it. None of the military who write our Uniform Code of Military Justice need a new law to find it wrong. None of the Judge Advocate Generals need a new law to find it wrong. They have declared it wrong.

Our treaties, our other obligations find it wrong. Up until the last week or so of this administration, we would have objected to any other country using such techniques on Americans as wrong.

I understand the White House determines what their nominees want to say. That is fine. I have not lobbied any Senator one way or the other on this issue. But let us not pretend there was one question out of hundreds on waterboarding. There were many questions. Several Senators asked questions on this, more on the philosophy of: Is a President above the law? Can the President arbitrarily set people in this country above the laws of America or do the laws that we pass and their assignment to law by Presidents, is that a law that applies to every single American, including the President of the United States? Most of us feel the same way we learned in civics 101, that no one in America is above the law. That is the issue we raised in the Judiciary Committee. Those who are voting no on this is because they felt a great deal of concern about the answers.

Nobody questions Judge Mukasey's legal abilities. I find him a very attractive candidate for Attorney General. I do not find the ability to continue to vote for a myth that somehow the President is above the law anymore than those of us who voted to confirm General Petraeus were, as the White House then wanted to say, saying that we believed in everything the President was doing in Iraq. Many of us voted against the war in Iraq who then voted for General Petraeus because of his ability as a four star general. They are entirely different things. The suggestion otherwise, I find beneath the quality of discourse in this great body. I resent it. I reject it. Let people make up their mind how to vote one way or the other, but don't vote on red herrings. Don't vote on made-up ideas that we need to pass some law in the future and then, of course, we can be tough. In the future, we will do something and then we can be tough. That is sort of like saying: Gosh, if we had known we weren't being told the truth, we might have voted differently on Iraq. If we knew that waterboarding was bad, we might have voted differently.

Vote one way or the other. I will not question the motives of any Senator, no matter how they vote, either for or against this nominee. But let's not do it on a hypocritical pretext that the President is above the law when he is not or that the President can put any American above the law because he cannot. Let us not pretend that torture is not torture because it is, and it is beneath the great ideals of the most wonderful Nation on Earth.

I thank the Senator from Nevada and yield back the remainder of my time.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. REID. Mr. President, the hearing in this matter on Judge Mukasey was good. The Judiciary Committee, with Senators LEAHY and SPECTER, did a good job, a full airing of this man's qualifications and ideas were present before the American people and the Senate. The debate that has transpired today dealing with Michael Mukasey has been extremely good. It has been good for the process. It is good for the American people to understand that the chief law enforcement officer of this country has had a fair hearing and a good debate in the Senate.

I will vote against the nomination of Michael Mukasey for Attorney General. My historical analysis is different than that of my good friend, the senior Senator from Kentucky, much different. It is regrettable that I must vote no. When the President first nominated Michael Mukasey, I was fully prepared to support him. That is the history I remember.

Judge Mukasey has a stellar reputation for integrity and judicial excellence throughout his decades of Government service. He has an excellent academic background. I was pleased to see that after the Gonzales debacle and with the Justice Department in shambles, the President finally relented to pressure from Senate Democrats to look beyond his inner circle at this most important appointment.

I considered it significant that an administration that has shown such contempt for the other two branches of Government, particularly judges, would turn to a candidate who served in the judicial branch for so many years. So like many Democrats, I was predisposed to support this nomination. In fact, I was prepared to embrace this nomination. I, too, met with Judge Mukasey and told him I was impressed with his credentials and his background and I hoped the hearing went well.

Well, the hearing didn't go well, from my perspective. During this confirmation process, Judge Mukasey expressed views about Executive power that I and many other Senators found deeply disturbing. I was outraged by his evasive hair-splitting approach to questions about the legality of waterboarding. After his initial comments, Judge Mukasey was given every opportunity to address these concerns. But he was unable to state clearly that waterboarding is torture and, therefore, illegal under U.S. law. This is not a difficult or complex legal question. It does not require high-level security briefings.

I agree with former Navy General Counsel Alberto Mora and former Assistant Secretary of State John Shattuck who wrote in an op-ed this week:

The question of whether waterboarding constitutes torture is a no-brainer.

Why is it a no-brainer? My friend, former Nevadan and now a long-time Federal Judge Evan Wallach, a former decorated Vietnam combat veteran who came back from military service in the first Gulf War and is now a leading expert on the law of war, wrote in a recent Washington Post article—in fact, it was last Sunday on the front page of the opinion section—

The media usually characterize the practice as ''simulated drowning'' [but] that's incorrect. To be effective, waterboarding is usually real drowning that simulates death.

The only difference between actual drowning and waterboarding is that the waterboarding process is halted before death. Victims inhale water, suffocate, and often pass out. Who could reasonably argue this is anything other than torture?

Judge Wallach further points out, in a related law review article in the Columbia Law Review, that even under the extreme and now disavowed legal theories of former Justice Department officials such as John Yoo, waterboarding still constitutes torture.

''Can there be any question,'' Judge Wallach asks, ''that water torture, the repetitive artificial drowning and revival of another human being, falls within their memo's parameters?'' No. There can be no question at all.

Notwithstanding the novel legal theories of the Bush administration, whose approval rating as we speak is 23 percent—and we wonder why—it has long been settled law in this Nation and around the world that waterboarding is torture and it is illegal. Civil and military courts in the United States have rejected waterboarding, as Senator LEAHY has said more than once today, for more than 100 years, whether directed at or committed by Americans.

U.S. soldiers were court-martialed for using water torture to question Filipino guerrillas during U.S. occupation of the Philippines after the 1898 Spanish-American war. After World War II, the United States prosecuted and convicted Japanese soldiers for waterboarding American allied prisoners of war. During the 1980s, a Texas sheriff was sentenced to 10 years in prison for using waterboarding to force confessions of prisoners. So this is not a new debate, nor an unsettled question.

Judge Mukasey doesn't need a classified briefing from the Bush White House to answer the question, is waterboarding torture. He has more than 100 years of established American law on which to base his position. His position was evasive without any question, misleading. That is why it is so disturbing that for all his impressive years on the bench, Judge Mukasey could not give a simple straightforward answer to the question posed by members of the Judiciary Committee, Democrats and Republicans. His lengthy nonresponsive answer was wrong. This was a question that demanded brevity and certainty, not lawyerly semantics.

My Republican colleagues, JOHN MCCAIN, LINDSEY GRAHAM and JOHN WARNER, who served as leaders in the Senate on this issue, recently issued a detailed legal analysis that concluded waterboarding ''represents a clear violation of the U.S. law.''

For purposes of this debate, let's give a little added credence to a man who served 7 years in a Vietnamese prison camp and was tortured more than half the time he was there—the rest of the time was in solitary confinement—JOHN MCCAIN. Let's give that a little more foundation.

Former and sitting Judge Advocate Generals agree. On Friday in a letter to the chairman of the Judiciary Committee, several prominent former Judge Advocate Generals declared unequivocally:

Waterboarding is inhumane, it is torture, and it is illegal . . . Waterboarding detainees amounts to illegal torture in all circumstances.

I could continue at length quoting military and civilian experts who all agree the answer to this question is settled. And it is settled. But why is this issue of waterboarding so critical for the chief law enforcement officer of our country, the U.S. Attorney General? Tremendous damage has been done to the moral credibility of our great country, both in the eyes of our allies and of our enemies abroad, by the widespread belief that our country, the United States, has used waterboarding and other abusive interrogation techniques. The United States of America has done that? All over the world now they know it.

As a result, our allies have at times refused to cooperate with us in the fight against terrorism, under constraints from their own laws and public opinion at home.

Even if the Bush administration is no longer utilizing waterboarding—which I do not know now—the President's refusal to publicly disavow it gives license to our enemies abroad to use it. This puts our troops and any citizen who may fall into our enemies' hands at risk and serves as an ongoing recruiting tool for militant extremists.

How do these evil people, who are trying to do damage to this country—how are they using the fact that America tortures people they want to get information from? How is this a recruiting tool for these bad people? A pretty good one, I would think.

President Bush claims we must not disclose our techniques to the enemy. But I contend we should shout from the hills and the rooftops for all to hear, that no matter how hateful the actions of our enemies, we will never relinquish our most treasured commitment to human rights.

That is America, Mr. President—not water torture, not thumb screws, not the rack.

We should make it clear to all the world that no matter what our enemies do, our core American values cannot be shaken. We are a constitutional form of government. We deserve an Attorney General who will uphold this message to the world.

Judge Mukasey's answer to the waterboarding question was important in itself, but it also raised for me serious doubts about whether he is prepared to be the truly independent voice that the Justice Department, which is now in shambles, so desperately needs. If he cannot stand up to the President on such a question of profound importance and simplicity with a clear legal answer, how can we be sure he would be more than just another mouthpiece for an administration that treasures secrecy and loyalty above all?

I respect Judge Mukasey's long career in public service. I have said that before. We have met in person. I have said that before. And there is no question he is an intelligent man. In the past, he has been very capable.

If he is confirmed, the eyes of every American will be on him as he faces the unenviable task of depoliticizing the Department of Justice and restoring the integrity that was so lacking under his predecessor, Alberto Gonzales. He will have my earnest support in that challenge.

But in light of his responses during and following his confirmation hearings, I cannot stand by him today with my words or my vote.

One day, Mr. President, historians will expend countless reams of paper and barrels of ink writing the story of the Bush-Cheney administration's extremism in support of its never-ending

quest to expand the reach of their Executive power. There is no question that this time will be remembered as a dark chapter in America's otherwise steady march toward justice.

But for now, all we can do is honor the trust and authority given to us as individual Senators by the American people and do what we, as Senators, can to turn the page to a brighter day because it needs to be turned.

What we can do today is reject this nomination. The next Attorney General must be able to stand up to the President and stand up for the rule of law.

If confirmed, I hope Judge Mukasey is up to that challenge. But because he has not given me confidence of his independence, I will vote against confirmation, and I urge my colleagues to do the same.

Mr. President, I ask for the yeas and nays on the nomination of Mike Mukasey to be Attorney General of the United States.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is, Will the Senate advise and consent to the nomination of Michael B. Mukasey, of New York, to be Attorney General?

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Delaware (Mr. BIDEN), the Senator from New York (Mrs. CLINTON), the Senator from Connecticut (Mr. DODD), and the Senator from Illinois (Mr. OBAMA) are necessarily absent.

I further announce that, if present and voting, the Senator from Delaware (Mr. BIDEN) would vote ''nay.''

Mr. LOTT. The following Senators are necessarily absent: the Senator from Tennessee (Mr. ALEXANDER), the Senator from Texas (Mr. CORNYN), and the Senator from Arizona (Mr. MCCAIN).

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

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

The result was announced—yeas 53, nays 40, as follows:

[Rollcall Vote No. 407 Ex.]

YEAS—53

Allard	Dole	Martinez
Barrasso	Domenici	McConnell
Bayh	Ensign	Murkowski
Bennett	Enzi	Nelson (NE)
Bond	Feinstein	Roberts
Brownback	Graham	Schumer
Bunning	Grassley	Sessions
Burr	Gregg	Shelby
Carper	Hagel	Smith
Chambliss	Hatch	Snowe
Coburn	Hutchison	Specter
Cochran	Inhofe	Stevens
Coleman	Isakson	Sununu
Collins	Kyl	Thune
Corker	Landrieu	Vitter
Craig	Lieberman	Voinovich
Crapo	Lott	Warner
DeMint	Lugar	

NAYS—40

Akaka	Inouye	Nelson (FL)
Baucus	Johnson	Pryor
Bingaman	Kennedy	Reed
Boxer	Kerry	Reid
Brown	Klobuchar	Rockefeller
Byrd	Kohl	Salazar
Cantwell	Lautenberg	Sanders
Cardin	Leahy	Stabenow
Casey	Levin	Tester
Conrad	Lincoln	Webb
Dorgan	McCaskill	Whitehouse
Durbin	Menendez	Wyden
Feingold	Mikulski	
Harkin	Murray	

NOT VOTING—7

Alexander	Cornyn	Obama
Biden	Dodd	
Clinton	McCain	

The nomination was confirmed.

Mr. MENENDEZ. Without objection, the motion to reconsider is laid on the table.

The President shall be notified of the Senate's action.

LEGISLATIVE SESSION

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

DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, 2008—CONFERENCE REPORT—Continued

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The conference report was agreed to.

Mrs. FEINSTEIN. Mr. President, I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. REID. Mr. President, there will be no more rollcall votes this week. The first vote next week will be at 10:10 Tuesday morning.

I note the absence of a quorum.

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

The legislative clerk proceeded to call the roll.

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

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

The Senate will be in order. Members will take their conversations off the floor.

UNANIMOUS CONSENT REQUEST—S. 1233

Mr. DURBIN. Mr. President, I ask unanimous consent that the Senate may proceed to the consideration of Calendar No. 335, S. 1233, at any time determined by the majority leader, following consultation with the Republican leader; that when the bill is considered, the only amendments in order to the bill, other than the committee-reported amendment, be first-degree amendments that are relevant to the subject matter of the bill and that they be subject to relevant second-degree amendments; that upon the disposition of all amendments, the committee-reported substitute amendment, as amended, if amended, be agreed to; the bill, as amended, be read the third time, passed, and the motion to reconsider be laid upon the table; that the title amendment be agreed to, and the motions to reconsider be laid upon the table, en bloc; that any statements relating thereto be printed in the RECORD.

The PRESIDING OFFICER. Is there objection?

Mr. CRAIG. I object.

The PRESIDING OFFICER. Objection is heard.

UNANIMOUS CONSENT REQUEST—S. 1315

Mr. DURBIN. Mr. President, I ask unanimous consent that the Senate may proceed to the consideration of Calendar No. 336, S. 1315, at any time determined by the majority leader following consultation with the Republican leader; that when the bill is considered, the only amendments in order to the bill, other than the committee-reported amendment, be first-degree amendments that are relevant to the subject matter of the bill and that they be subject to relevant second-degree amendments; that upon the disposition of all amendments, the committee-reported substitute amendment, as amended, if amended, be agreed to; the bill, as amended, be read the third time, passed, and the motion to reconsider be laid upon the table; that the title amendment be agreed to, and the motions to reconsider be laid upon the table, en bloc; that any statements relating thereto be printed in the RECORD.

The PRESIDING OFFICER. Is there objection?

Mr. CRAIG. I object.

The PRESIDING OFFICER. Objection is heard.

UNANIMOUS CONSENT REQUEST—S. 2168

Mr. DURBIN. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 459, S. 2168; further that the committee amendments be agreed to; the bill, as amended, be read the third time and passed; the motion to reconsider be laid upon the table, with no intervening action or debate; that any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Is there objection?

Mr. CRAIG. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. CRAIG. Mr. President, I wish to discuss my opposition to two bills reported by the Veterans' Affairs Committee, but I continue to hope we can resolve the concerns I will address today.

Unanimous consent has been sought to pass two controversial bills: S. 1233,

the Veterans Traumatic Brain Injury and Health Programs Improvement Act, and S. 1315, the Veterans Benefits Enhancement Act. Although both bills are well-intended, they contain unacceptable provisions that I believe would be detrimental to the care our returning wounded warriors deserve and currently receive at VA facilities. At the very least, these provisions are controversial enough to merit considerable floor debate, and therefore I have no alternative but to oppose the unanimous consent agreement.

In the past, the Veterans' Affairs Committee has worked in a bipartisan fashion to settle differences at the committee level and avoid taking up Senate floor time to debate and amend significant veterans legislation. Unfortunately, that is not the case with S. 1233 and S. 1315. Even so, I do not want to close the door on these bills because each has numerous provisions that I support or have sponsored in the past. Both bills contain provisions to enhance the care our veterans receive, and I believe that if we can return to the negotiating table, we can find an acceptable solution to both my concerns and the concerns of my colleagues.

I would like to address these two bills separately because they clearly raise different issues. S. 1315, the Veterans Benefits Enhancement Act, contains a number of important provisions that will enhance benefits and services for America's combat veterans returning from the war in Iraq and the global war on terror and for all veterans with service-connected disabilities.

Among those provisions that I believe are important and responsible for us to provide our veterans are retroactive payments under the traumatic injury protection program of Servicemembers' Group Life Insurance for those injured outside of Operation Iraqi Freedom or Operation Enduring Freedom theaters of operation between October 7, 2001, and December 1, 2005. This will ensure that soldiers injured on their way to fight in OIF or OEF, but not in the theater of combat, are eligible for these benefits.

Other provisions in this bill will expand the housing grant assistance program available to those with severe burn injuries—injuries that are a sad and terrible reality of our current conflict. We must continue to adapt and modify the benefits our veterans receive based on the changing environment in which our soldiers fight; these provisions are a great example of our ability to do so.

However, there is a section within this bill that I vigorously oppose. In fact, this provision is the sole reason for my unwillingness to support the bill, and I would like to explain it here today. Included in S. 1315 is a section that would expand benefits to certain Filipino veterans residing both in the United States and abroad. I have supported, and continue to support, improving benefits for Filipino veterans who fought under U.S. command during World War II. However, I believe that the approach taken in this section with respect to special pension benefits for non-U.S. citizens and non-U.S. resident Filipino veterans and surviving spouses goes beyond the intent of veterans benefits. Further, I do not believe such a provision would have the support of the American people.

Let me explain.

Pension benefits for veterans in the United States are paid at a maximum annual rate of $10,929 for those with no dependents, $14,313 for those with dependents, and $7,329 for a surviving spouse. The maximum VA pension represents somewhere between 16 percent and 31 percent of the annual U.S. household income of $46,000. Contrast that with the average Philippines household income of $2,800. The special pension for Filipino veterans in S. 1315 would amount to an astounding 86 percent to 161 percent of the Philippines household income.

This legislation did not take into account the vast discrepancy between the standard of living in the United States and the Philippines. By refusing to look at the purchasing power of the benefits being provided here, this legislation would pay veterans in the Philippines far more in benefits and pension than we pay our own veterans. It is especially ironic that a bill intending to treat Filipino veterans equitably would create such a dramatic inequity for our U.S. veterans.

Furthermore, the offset that S. 1315 uses to ensure that the bill is in compliance with congressional budget rules would have the effect of reducing pension amounts to elderly, poor, and disabled veterans predominantly residing in the United States. I acknowledge there is considerable agreement that these extra payments for certain categories of veterans were never contemplated by Congress and, therefore, are not justified. However, if presented with the choice of using the savings from eliminating these payments to provide extra pension assistance to low-income veterans in the United States or to underwrite the kind of special benefit I described earlier, I believe the American people would choose to take care of our own veterans' pensions first—and when providing benefits to the Filipino veterans, they would insist that those benefits are adjusted to reflect the real differences in costs of living between our two countries.

The other bill I would like to address today is S. 1233, the Veterans Traumatic Brain Injury and Health Programs Improvement Act. I was originally a cosponsor of this legislation and would very much like to see it move forward and be signed into law. However, there are a few provisions that are premature, considering the current capacity of our VA medical facilities, and I hope my colleagues will agree these provisions should be deferred to a later date.

The provisions I must regrettably oppose at this time are the proposed admittance of Priority 8 and Priority 4 veterans into the VA health system. To ensure VA can meet our Nation's obligation to veterans with combat or military-related disabilities, lower income veterans, and those needing specialized care like veterans who are blind or have spinal cord injuries—to ensure appropriate care for these veterans, former VA Secretary Anthony Principi suspended additional enrollments for veterans with the lowest statutory priority. This category includes veterans who are not being compensated for a military-related disability and who have higher incomes.

It has become very clear, especially over the last few years, that servicemembers returning from Iraq and Afghanistan are enduring lengthy waiting times for care. In the face of such assessments, I do not understand why we should be in a rush to open up the health care system to hundreds of thousands—if not millions—of new patients who by definition are not in need of immediate assistance or can afford private health care.

Moreover, it appears that the provision in this bill would open VA to new enrollees on the day the legislation is signed into law. Yet no plan is required to ensure that the enrollment process would be orderly and executed so as to minimize impacts on current patients, nor is there any requirement that the necessary funding be available prior to its implementation. Instead, VA would simply open the doors and wait to see who arrives. I believe that is irresponsible and unfair to the current enrollees who are in most need of care.

We should forgo opening up the VA health care system until such a time as the Secretary of the VA can certify that troops returning from Iraq and Afghanistan are being provided timely, high-quality health care and neither timeliness nor quality would suffer because of newer enrollees, such as Priority 8 veterans. VA's health care system was created primarily to care for ''he who shall have borne the battle.'' Congress should ensure that this unique group of veterans is not unduly burdened by any new influx of higher income veterans with no military-related disabilities.

Some Senators may contend that money can overcome any obstacle to providing all veterans with health care through VA. However, since any money provided for new patients would be used to acquire new staff, new equipment, and new space, it is important to know if those resources are even available.

Let's first consider where VA will find the new staff needed to care for the huge influx of patients this legislation proposes. It is widely known that our Nation has a shortage of primary care physicians and nurses to provide basic health care services in non-VA facilities. This issue was made clear in a July 2007 report from the Health Research Institute of Pricewater-

houseCoopers which showed that the United States will be short nearly 1 million nurses and 24,000 physicians by 2020. In this environment, simply finding new staff to hire will be a challenge for any health care system, including VA.

Further, assuming the requisite staff can be found, I am skeptical that VA has the necessary clinical space in which to provide more primary and specialty care services. I am also skeptical that many VA facilities could open the additional operating rooms, postsurgical recovery units, and intensive care units that would be required with a large increase in patients.

Last, the Congressional Budget Office has scored this legislation at $1.3 billion for the first year of inclusion of just Priority 8s into the system, or $8.8 billion from 2008 to 2012. However, it must be noted that CBO assumed Priority 8s would only be allowed to enroll in the system for 1 year, after which enrollment would be closed. Based on past experience, it is highly unlikely that Congress will maintain such a 1-year limit and virtually certain the costs would continue to rise above and beyond what CBO projected for implementation of this legislation.

When the VA health care system can support a substantial increase in patients, I will be more than happy to address this issue with my colleagues. However, at this point, when even our returning wounded warriors are forced to sit in long waiting lines to receive care, it would be grossly irresponsible for us to move forward with this legislation, and I must therefore continue to object to its passage.

The underlying legislation also contains a provision waiving required inpatient care copayments for Priority 4 veterans with higher incomes. I have concerns with this provision as well.

The passage of this provision would change VA's policy of charging a copayment for the care of a nonservice-connected condition, to allow an exception for circumstances that have nothing to do with a veteran's ability to pay. A grateful Nation has seen fit to provide cost-free care for service-connected conditions and has generously extended the same benefit to those with limited financial resources. However, with this provision, it would no longer be relevant whether veterans could afford to contribute even modestly to the cost of their care. Rather, cost-free care would be provided to a population of patients based solely on a particular health condition. That is a bad precedent.

If this legislation passes, I believe that in the not too distant future, it will be strongly argued by higher income, service-connected veterans that their benefit—cost-free care for service-connected conditions—has been diluted. And the dilution is not fair because now they would be charged for nonservice-connected care, while those with similar economic means in Priority 4 would not be forced to make copayments for the same type of care. With this provision as precedent, a future Congress will be forced to concede to the dilution and its unfairness. Then they will probably be forced to accede to the change.

All that being said, I would like to make sure that my colleagues understand that while I am objecting to passage of these bills in their current form, I sincerely hope and believe that accommodations can be made so that we can pass these bills and get much needed improvements made to the VA health care and benefits systems. Both bills have very meaningful and well-intentioned provisions that I support; unfortunately, there are a few provisions that I believe are detrimental or simply unfair to our Nation's veterans, and for that reason I am here on the floor of the Senate explaining my reasons for objecting to passage of these bills.

I look forward to discussing with my colleagues ways that we can move these bills and reach a compromise that benefits our brave veterans.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

MORNING BUSINESS

Mr. DURBIN. Mr. President, I ask unanimous consent that there now be a period of morning business, with Senators permitted to speak therein for up to 10 minutes each.

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

VETERANS DAY

Mr. MCCONNELL. Mr. President, 89 years ago this Sunday, the guns fell silent in Europe. It was the end of a global conflict so savage that many people doubted anyone would ever want to start a war again. New technologies had clashed with old ways of fighting to create new horrors and apocalyptic battles like the Somme, which tested not only the limits of armies but our powers of comprehension.

America had no role in starting the war, but we played a decisive one in ending it. Our Doughboys earned the gratitude of entire nations. They gave their countrymen a new sense of purpose. And America would always remember Armistice Day, as President Wilson said, with ''solemn pride in the heroism of those who died in the country's service and with gratitude for the victory. . . . .''

As we all know, the War to End All Wars did not live up to its name. Just 11 years after it ended, a former corporal from the German Army who had fought on the Western Front was already building a regime that would bring new horrors. At the end of World War I, museums were dedicated to the memory of war. But soon enough even ''Big Willie,'' the first tank, was being rolled out of one of those museums and converted into shells and shrapnel for another terrible war.

And again, the world would turn to America for help. More than 16 million U.S. servicemen would be called upon to defend the cause of freedom against tyranny and terror in World War II—young men like 2LT DAN INOUYE Honolulu and a 19-year-old surfer from Manhattan Beach, CA, named TED STEVENS.

It has been noted that when American servicemen came home from World War II, no one said, ''We Won!'' They said ''It's over!'' Because, as President Roosevelt once observed, ''The primary purpose of the United States of America is to avoid being drawn into war.'' When called, our young men and women have served. But when the fight is over, they just want to go home.

And World War II was like that. Everybody just picked up where they left off, stepped right back into the assembly line, or the office, or the baseball diamond, or the boxing ring. These are the humble heroes of our country, the only aristocrats in a democracy—men and women who risk their lives so we can live in freedom and peace. And who ask nothing in return but to return to their hometowns and to carry on as they please.

And so it is up to us to speak well of them, to honor them in special ceremonies and songs and in this annual day of remembrance that for the last 53 years we have referred to simply as Veterans Day. Since 1954, Americans have paused on November 11 not just to remember the men who fought in the Great War those who fought in all our wars: from Valley Forge to Antietam, from the beaches of France to the jungles of Vietnam—paused to remember and to thank them for what they have done for us and for the ''millions not yet born'' whose freedom will rest on their sacrifice.

We also remember this Veterans Day those who will soon be called veterans, the men and women in Afghanistan and Iraq who are have volunteered to protect us in this new era from new horrors and the many men and women who have died in this struggle for freedom—people like SGT William Bowling, of Beattyville, KY, a shy but proud husband and father who was killed earlier this year by a roadside bomb while patrolling the streets of Baghdad.

Like so many before him, Sergeant Bowling threw himself into his mission. ''This is the job he wanted to do,'' his wife Jennifer said shortly after his death. ''He wanted to serve his country.''

By his courage and devotion to duty and the cause of freedom, Sergeant Bowling showed the best that Kentucky and this country have to offer.

And he reminds all of us what makes this country great: young men and women who believe that serving others is greater than serving self, and who have proved it in every generation since Yorktown by making the sacrifices freedom too often demands.

There is no greater service to our great Nation than the one Sergeant Bowling gave on a dusty road in Baghdad. And there is no greater hope for humanity than men and women like him. They come from places like Honolulu and Manhattan Beach. They come from places like Beattyville.

And we pray to God that they continue to come.

Mr. DOMENICI. Mr. President. I would like to take a moment to commemorate Veterans Day and honor all those who have served, fought, and sacrificed for our country and the freedom all Americans enjoy.

We as a nation should never forget the debt we owe to the generations of Americans who have served as soldiers, sailors, airmen and marines. From the First and Second World Wars, to Korea, Vietnam, and the Persian Gulf war, millions of Americans have answered the call of duty to preserve the freedom we all hold so dear. This is also true for our service men and women who are right now doing an amazing job in Iraq and the war on terror and throughout the world.

Sadly, many Americans have paid the ultimate price and have given their lives for our country. No praise can be too great for the courage, valor, and patriotism of these men and women, and their sacrifice will never be forgotten.

I think it is also important to remember the service of veterans to our country has never ended with their departure from the Armed Forces. They have enriched every community in which they reside with their strength of character, hard work, and devotion to family. For this we must also be grateful.

On this Veterans Day, I hope New Mexicans will honor all the veterans of our great Nation, but I would like them to think particularly about our service men and women who are right this moment in harm's way. They, like all veterans, have left behind the comfort of home, family, and friends to defend our country and its countless blessings. For this, many have paid an immense price, emotionally and physically. I know our thoughts and prayers are with these outstanding individuals.

Again, I would like to thank all those who have served past and present to preserve and protect our great Nation.

FREE FLOW OF INFORMATION ACT

Mr. LEAHY. Mr. President, when the Judiciary Committee reported Federal reporters' shield legislation to the floor on October 23, I called on the full Senate to promptly consider and pass this important legislation. The Senate version of the Free Flow of Information Act, S. 2035, is bipartisan legislation that was favorably reported by the Judiciary Committee on a strong bipartisan vote. The House has already passed legislation on this same subject, H.R. 2102, with a strong, bipartisan and veto-proof majority of 398 to 21.

Both of these bipartisan bills are available and waiting for Senate action, and I believe that there are well over 60 votes in favor of passing a shield bill in the Senate. I strongly support the enactment of a Federal shield law for journalists, and I urge the Senate to promptly consider and pass Federal shield legislation.

All of us have an interest in enacting a balanced and meaningful first amendment privilege. According to a newly released study by Privacy International—a privacy, civil liberties and human rights watchdog organization, the United States is one of just a few established democracies around the world that does not have a law to protect journalists from being forced to reveal confidential sources. In fact, according to that study, approximately 100 countries have adopted laws that allow journalists to honor their promise of confidentiality.

Sadly, the press has become the first stop, rather than the last resort, for our government and private litigants when it comes to seeking information. This is a dangerous trend that can have a chilling effect on the press and the public's right to know.

Enacting Federal shield legislation would help to reverse this troubling trend. In fact, proceeding promptly to consideration of this legislation is something I strongly support. Should the Senate take up the bipartisan shield bill that overwhelmingly passed in the House, federal shield legislation could go immediately to the President's desk and be signed into law without delay this year.

The Senate bill has the support of a bipartisan coalition of Senators, including Senators SPECTER, SCHUMER, LUGAR, DODD, GRAHAM, and myself, who have all united to cosponsor this legislation. In addition, more than 50 news media and journalism organizations support this legislation and the call for Senate action on this historic bill extends to editorial pages across the country, including The New York Times, Arizona Republic, L. A. Times, Salt Lake Tribune, and San Francisco Chronicle, among others.

The Senate and House bills protect law enforcement interests and safeguard national security. Moreover, both of these bills follow the lead of 33 States and the District of Columbia which have shield laws, and many other States, including Vermont, which recognize a common law reporters' privilege. Tellingly, the Bush administration has not identified a single circumstance where a reporters' privilege has caused harm to national security or to law enforcement, despite the fact that many courts have recognized such a privilege for years.

Given the overwhelming need and support for a federal shield law to protect the public's right to know, I urge the Senate to promptly consider and pass a Federal shield bill.

I ask unanimous consent that a copy of a support letter from the Media Coalition Supporting the Free Flow of Information Act, which is signed by 67 different news organizations, be printed in the RECORD.

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

MEDIA COALITION SUPPORTING THE FREE FLOW OF INFORMATION ACT,
NOVEMBER 6, 2007.

Re S. 2035 and H.R. 2102, the Free Flow of Information Act

DEAR SENATOR: On behalf of the men and women across the nation who work to bring the American people vital news and information, we, the undersigned media companies and organizations, urge you to support expeditious Senate passage of the Free Flow of Information Act, legislation that is vitally important to the national interest. Protecting confidential sources through federal legislation has broad support on both sides of the aisle, in both houses of Congress, and from state attorneys general across the nation. Your support is essential to ensure that the American people have access to information about their government and the institutions that affect their daily lives.

Democrats and Republicans have united to provide overwhelming support for this legislation. The Senate Judiciary Committee reported S. 2035 by a 15–4 vote on October 4, and the House passed H.R. 2102 by a 398–21 vote on October 16. Both versions of the Free Flow of Information Act are available for immediate floor action on the Senate Business Calendar. As the strength of these votes suggests, Senators and House Members from opposite ends of the political spectrum have joined together to support the public's right to have essential information and to protect whistleblowers who are sometimes the only way the public can get this information.

While the Free Flow of Information Act will protect confidential sources by establishing a uniform standard for obtaining information from reporters in federal court proceedings, it is important to note that both versions of the legislation have been amended to ensure that national security is also protected. While many state laws provide for a more absolute privilege, both versions of this legislation are limited to a qualified privilege with exceptions for acts of terrorism or other significant harm to national security.

With 49 states and the District of Columbia having either common law or codified protection for confidential sources, there is a growing (bipartisan) acknowledgement that enactment of a federal law is imperative. In a recent brief filed with the United States Supreme Court, a group of 34 state attorneys general pointed out that lack of a clear standard of federal protection undermines state law. These state laws have worked successfully for many years, defining those covered by the law and the limits of that coverage. At the same time, they have protected the public's right to information while still allowing these states to investigate crimes and protect public safety.

News organizations prefer to have their sources on the record whenever possible. However, history is replete with examples of news articles critical to the national interest that would have never been written had it not been for the protection of confidential sources. As many of your colleagues have

stressed and state legislatures have recognized, the time is now for the protection of confidential sources, and the safeguarding of the public's right to know. This issue is too important to remain unresolved as the year and the congressional session draw to a close. We urge you to press for immediate and favorable Senate floor consideration of the Free Flow of Information Act. Thank you.

If you have any questions or need additional information, please contact Paul Boyle or Laura Rychak of the Newspaper Association of America at 202–783–4697.

Very truly yours,

ABC Inc.
Advance Publications, Inc.
Allbritton Communications Company.
American Business Media.
American Society of Magazine Editors.
American Society of Newspaper Editors.
The Associated Press.
The Associated Press Managing Editors Association.
Association of Alternative Newsweeklies.
Association of American Publishers.
Association of Capitol Reporters and Editors.
Belo Corp.
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The Copley Press, Inc.
Court TV.
Cox Television.
Cox Newspapers.
Cox Enterprises, Inc.
Daily News, L.P.
First Amendment Coalition of Arizona, Inc.
Freedom Communications, Inc.
Gannett Co., Inc.
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Media Law Resource Center.
National Association of Broadcasters.
National Federation of Press Women.
The National Geographic Society.
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The New York Times Company.
North Jersey Media Group Inc.
Online News Association.
Radio-Television News Directors Association.
Raycom Media, Inc.,
Reporters Committee for Freedom of the Press.
Reuters America LLC.
E. W. Scripps.
Society of Professional Journalists.
Time Inc.
Time Warner.
Tribune Company.
The Walt Disney Company.
The Washington Post.
U.S. News & World Report.
White House News Photographers Association.

HONORING OUR ARMED FORCES

LIEUTENANT SETH PIERCE

Mr. HAGEL. Mr. President, I rise to express my sympathy over the loss of U.S. Marine Corps 2LT Seth Pierce of Lincoln, NE. Lieutenant Pierce died on October 21 from injuries he sustained in an automobile accident on base at Quantico, VA, where he was stationed. He was 23 years old.

Lieutenant Pierce graduated from Lincoln Southeast High School in 2002, where he led the relay team to a State championship in 2001. After graduating from Arizona State University in 2006, he was commissioned as a second lieutenant into the U.S. Marine Corps.

All of Nebraska is proud of Lieutenant Pierce's service to our country, as well as that of the thousands of brave men and women serving in the U.S. Armed Forces.

Lieutenant Pierce is remembered as a devoted son, brother, and grandson. He is survived by his parents Larry and Linda; his brother Aaron, and his grandparents, Edwin and Ruth Steffens, and Luther and Esther Pierce.

I ask my colleagues to join me and all Americans in honoring 2LT Seth Pierce.

MEDICARE PHYSICIAN PAYMENTS

Ms. STABENOW. Mr. President, if Congress does not act soon, Medicare payments to physicians and health care professionals will be cut by 10 percent on January 1, 2008 as a result of the fatally flawed sustainable growth rate formula.

This does not make any sense. While costs continue to increase, physicians will actually be paid less than they are paid today.

While a 10 percent cut in 2008 is completely indefensible, it does not end there. When combined with the additional cuts required under current law through 2016, physician payment rates will be reduced by approximately 40 percent.

What will be the result? Doctors will decrease the number of Medicare patients they accept, defer purchase of health information technology, and rural outreach services will be discontinued. The Medicare Program, which for more than 40 years has lifted countless seniors out of poverty, and has ensured access to necessary, affordable, quality medical care for our most vulnerable citizens, would be destabilized. The health of the nearly 42 million Americans who rely on Medicare would be threatened.

Physicians are the foundation of the Medicare Program and our Nation's health care system and patients of all ages depend upon them for health care services. Every aspect of our health care system, from hospitals to rural health clinics, relies upon the skills and services of physicians. Yet, on average, physician payments in 2007 are below what they were in 2001.

It defies common sense to think that payment rates that are lower today than they were 6 years ago will be enough to maintain the access to care our seniors need. Very simply put, the projected 2008—and beyond—payment cuts will place beneficiary's access to health care at risk.

I am proud of the work that over 20,000 M.D.s and D.O.s in Michigan do, providing more than 1.4 million seniors and people with disabilities in Michigan with high-quality medical services under the Medicare Program.

I want them to be able to continue to do that, but there is simply no way that can be expected unless we do something now about the payment system used to reimburse physicians for Medicare services.

Physicians in Michigan will lose $670 million for the care of elderly and disabled patients over the next 2 years due to the 10 percent cut in Medicare payments for 2008 and the additional 5 percent cut in 2009. My physicians are looking at cuts of more than $10 billion by 2016 as a result of the SGR formula and 9 years of cuts.

We certainly cannot expect that physicians can continue to provide the same level of care while their payments are cut $670 million over the next 2 years alone.

Several studies and surveys have shown that payment cuts will result in physicians modifying their participation in the Medicare Program and limiting the number of new Medicare patients they treat.

We also know from the studies that the lack of a predictable and equitable Medicare payment system encourages older physicians to retire, discourages younger physicians from entering specialties that predominately treat Medicare patients, and hinders investment in health information technology.

In addition to the studies that have been conducted, and our own common sense, the Medicare Payment Advisory Commission, an independent Federal body established by Congress in 1997 to advise us on issues affecting the Medicare program, has been telling us since 2001 that the Medicare sustainable growth rate formula is a flawed, inequitable mechanism for controlling the volume of services and that it should be repealed.

It is absolutely critical that ultimately Congress needs to enact a long-term solution to this issue. In the short term, we need to end the practice of dealing with the cuts on a yearly basis in a manner that results in deeper automatic physician payment reductions in future years.

At a minimum, I believe we must pass legislation this year that provides physicians with 2 years of positive Medicare payment updates and do so in a way that does not add to the cost of eliminating the SGR.

By providing 2 years of positive Medicare payment updates for physicians, we would avoid having to come back next year facing the same issue and would instead create the ability for Congress to develop a new, sustainable Medicare physician payment system.

I thank Senator BAUCUS, the Senate Finance chairman, for his work on behalf of Medicare beneficiaries and physicians and I fully support his goal of

providing a 2-year ''fix'' for physician payments in the package he develops in the coming month.

I share his belief that ultimately we need to repeal the SGR and establish a Medicare physician payment system that will provide stable, positive payment updates to preserve Medicare beneficiaries' access to high-quality care for the long term. I hope we will be able to begin that process under his leadership next year.

WAR IN IRAQ

Mr. FEINGOLD. Mr. President, the Senate has spent little time in recent weeks discussing Iraq, but we cannot ignore the latest grim news from this misguided war. The Associated Press reported this week that 2007 is now the deadliest year in Iraq for U.S. troops—even though we still have almost 2 months of this year remaining. I will ask that the article be printed in the RECORD.

According to a recent Associated Press count at least 3,858 Americans have been killed and 28,385 Americans have been wounded in Iraq. We are fast approaching two very grim milestones—4,000 killed and 30,000 casualties. We should stop and consider the implications of these numbers. I grieve for those who are lost and wounded, and I am all the more determined that no more of our brave men and women should be killed in a war that has no end in sight and is not making our country safer.

Instead of acknowledging that these sad milestones are indications of a failed policy, the administration is once again digging it in heels. Lately, it has been talking about the recent decline in U.S. deaths as a justification for continuing its open-ended military policies in Iraq.

The American people are not fooled by these claims of success. They know all too well that the President's policies are simply buying time, and they continue to reject them. A recent ABC News/Washington Post poll illustrates that a majority of Americans are still calling for a change of course in Iraq. 59 percent of Americans think we're not making significant progress in Iraq and 6 out of 10 that's 60 percent of Americans want the level of U.S. forces reduced. And yet, the President ignores the wishes of the public, offering a small, token drawdown of forces in the near future but no timeline as to when significant numbers of troops will come home.

If the goal of the surge was to provide a window for political reconciliation, as the President outlined last January, victory remains elusive. Meanwhile, Al-Qaida has reconstituted and strengthened itself along the Afghanistan-Pakistan border region at the same time while we have been focused on fighting a war in Iraq. The President likes to say that Iraq is the central front in the war on terror instead of fixing all his attention on Iraq, he needs to address what is happening hundreds of miles to the east.

Again and again, the American people have once again voiced their opinion that this war makes no sense and that they expect us uphold our congressional responsibilities and use our power to end it. It is bad enough to have the President disregard the American people by escalating our involvement in Iraq. Despite the efforts of Democratic leaders, Congress is also ignoring the will of the American people.

And so I urge my colleagues not to allow Iraq to remain on the congressional backburner. We cannot say we've done everything possible to end the war—we cannot say we are acting on our constituents' top concern—when we are not discussing, not debating, and certainly not voting on Iraq.

We cannot afford to sideline this critical issue at a time when we are close to reaching 4,000 American men and women killed and 30,000 wounded in a misguided, never-ending war. It is a war that will continue through the waning days of this administration unless we summon our congressional power to end it. It is a war that we cannot sit back and doing nothing about. It is a war that has cost over half trillion dollars, stretched our military to the breaking point, and made us less safe. It is an unacceptable war.

Mr. President, I ask unanimous consent that the article from the Associated press to which I referred be printed in the RECORD.

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

AP: DEADLIEST YEAR FOR U.S. IN IRAQ—MILITARY ANNOUNCES DEATHS OF FIVE U.S. SOLDIERS, RAISING YEAR'S TOTAL TO 852

BAGHDAD.—Five more U.S. troops were killed in Iraq, the military said Tuesday—making 2007 the deadliest year for American forces in Iraq, according to an Associated Press count.

At least 852 U.S. military personnel have died in Iraq so far this year—the highest annual toll since the war began in March 2003, according to AP figures. Some 850 troops died in 2004.

The grim milestone passed despite a sharp drop in U.S. and Iraqi deaths here in recent months, after a 30,000-strong U.S. force buildup.

DEADLY IEDS

The five U.S. soldiers died Monday in two separate attacks, Rear Adm. Gregory Smith, director of the Multi-National Force-Iraq's communications division, told reporters Tuesday. ''We lost five soldiers yesterday in two unfortunate incidents, both involving IEDs,'' he said, using the military's shorthand for improvised explosive devices—roadside bombs.

Their deaths brought to at least 3,855 the number of U.S. troops who have died since the beginning of the Iraq war, according to an AP count. The figure includes eight civilians working for the military.

At least 852 American military members died in Iraq in 2007, compared with 850 troops in 2004. That year saw mostly larger, more conventional battles like the campaign to cleanse Fallujah of Sunni militants in November, and U.S. clashes with Shiite militiamen in the sect's holy city of Najaf in August.

WIDENING REACH OF U.S. MILITARY

But the American military in Iraq reached its highest troop levels in Iraq this year—165,000. Moreover, the military's decision to send soldiers out of large bases and into Iraqi communities means more troops have seen more ''contact with enemy forces'' than ever before, said Maj. Winfield Danielson, a U.S. military spokesman in Baghdad.

''It's due to the troop surge, which allowed us to go into areas that were previously safe havens for insurgents,'' Danielson told the AP on Sunday. ''Having more soldiers, and having them out in the communities, certainly contributes to our casualties.''

Last spring, U.S. platoons took up positions—often in abandoned houses or in muddy, half-collapsed police stations—at the heart of neighborhoods across Baghdad and nearby communities.

The move was part of President Bush's new strategy to drive al-Qaida from the capital.

It was the first time many residents had seen U.S. troops up close, rather than whizzing by in armored convoys en route to huge bases that house thousands of troops. And it was the first time many U.S. troops went to bed each night outside those fortresses, to the sounds of Iraqi life: gunfire, the roar of helicopters overhead and an occasional explosion.

The move has worked, U.S. officials say. Increasingly, the sounds of Baghdad include children playing on the streets.

''It's allowed Iraqi civilians to get more comfortable with U.S. forces—increasing the number of tips we get from Iraqi citizens,'' Danielson said. ''That leads us to insurgent leaders and cells, and cleaning those up has led to a decline in violence over the past couple months.''

Death tolls for Americans and Iraqis have fallen dramatically in recent months, as have the number of bombings, shootings and other violence.

At least 1,023 Iraqi civilians died in September; in October, that figure was just 875. The number of U.S. troop deaths dropped from 65 to 36 in the same period, according to statistics kept by the AP. That's the lowest monthly toll of American deaths this year.

On average, 56 Iraqis—civilians and security forces have died each day so far in 2007, according to the AP count.

MASS GRAVE LOCATED

Meantime, Iraqi troops discovered 22 bodies in a mass grave in the Lake Tharthar area northwest of Baghdad, the U.S. military also said Tuesday. The bodies were found during a joint operation Saturday.

It was the second mass grave found in the area in less than a month.

Meanwhile, the United States said it planned to release nine Iranian prisoners in the coming days, including two captured when U.S. troops stormed an Iranian government office in Irbil last January. The office was shut after the raid, but it reopened as an Iranian consulate on Tuesday, Iraqi and Iranian officials said.

GATES SAYS IRAN FULFILLS PLEDGE

A military spokesman said Iran appears to have kept its promise to stop the flow into Iraq of bomb-making materials and other weaponry that Washington says has inflamed insurgent violence and caused many American troop casualties.

U.S. Defense Secretary Robert Gates said last week that Iran had made such assurances to the Iraqi government.

''It's our best judgment that these particular EFPs . . . in recent large cache finds do not appear to have arrived here in Iraq after those pledges were made,'' Smith said.

Among the weapons Washington has accused Iran of supplying to Iraqi insurgents are EFPs, or explosively formed projectiles. They fire a slug of molten metal capable of penetrating even the most heavily armored military vehicles, and thus are more deadly than other roadside bombs.

The No. 2 U.S. commander in Iraq, Lt. Gen. Ray Odierno, said last week that there had been a sharp decline in the number of EFPs found in Iraq in the last three months. At the time, he and Gates both said it was too early to tell whether the trend would hold, and whether it could be attributed to action by Iranian authorities. Iran publicly denies that it has sent weapons to Shiite militias in Iraq.

IRAN

Mr. FEINGOLD. Mr. President, the President of the United States is pursuing a strategy towards Iran that is badly flawed, dangerous, and likely doomed to failure. I am deeply concerned about Iran's nuclear program and its support for terrorism, and by indications that it is aiding groups in Iraq that are killing American troops, but the administration has so far failed to come up with an effective way to address these very serious matters.

For instance, less than 2 weeks ago the administration designated the Quds Force of the Islamic Revolutionary Guards Corps as a material supporter of terrorism, and the IRGC for proliferation activities. I support sanctions that target proliferators and have introduced legislation that would strengthen our sanctions regime, but the designation of Iranian government entities raises new policy questions that do not seem to have been fully explored, and it may very well be counterproductive.

Moreover, this poorly timed action undermines efforts to win support for multilateral initiatives. Instead of acting alone, we should maintain and strengthen the international community's collective ability to counter Iranian ambitions, including with regard to its nuclear program.

Iran's actions pose serious threats to our national security. But aggressive saber-rattling is not an appropriate or effective response. The administration has shown repeatedly that it is too quick to turn to military power, and its threat, to address problems overseas. It has also shown time and again an inability to see the big picture. And it still seems to prefer unilateral over multilateral approaches. All of these are mistakes we cannot afford to have repeated.

We can't focus on Iran in isolation, the way the administration has focused for so long on Iraq without considering a broader context or taking a more comprehensive approach.

Instead of repeating the myopia of Iraq, the administration should approach the problem of Iran through a more strategic lens one that incorporates a broader and more integrated vision, that takes into account regional concerns, and that is consistent with our top national security priority, which is the fight against al-Qaida and its affiliates. We need a national security strategy that addresses al-Qaida, Iran, Iraq, and the many other problems we face. Instead, the administration prefers to focus on Iraq, and now Iran, as if we had the luxury of addressing these challenges in isolation.

We must vigorously oppose any efforts by Iran to acquire nuclear weapons and its support to terrorist organizations that goes almost without saying. But we must curb these actions by seeing the whole board and by using more of the tools at our disposal. And that is not happening. Instead, the administration is taking an unnecessarily belligerent approach that runs the risk of increasing our vulnerability, both at home and abroad.

The United States should be working in unison with the international community, which shares our concern over Iran's nuclear program. At the same time as the new sanctions were announced, the European Union's foreign policy chief, Javier Solana, was meeting in Rome with Iran's negotiators to discuss Tehran's nuclear program and discussions among the EU+ 3 comprised of France, Germany and the UK plus China, Russia and U.S.—are likely to continue at the end of November following the completion of another IAEA report.

In the past, Secretary Rice and others at State have publicly supported these talks and expressed confidence in the negotiations. But the administration's hard line position is unlikely to win over Russia and China, without whom there can be little progress.

The administration should be trying to persuade our friends and allies to increase their economic pressure on Iran, ideally through the U.N. Rather than imposing unilateral sanctions, we should be pressing the EU to announce multilateral sanctions, which would have a much greater impact given that we have not traded or invested in Iran for nearly 30 years. Instead, our bellicose rhetoric and hard-line approach could be undermining our ability to gain support from—Russia, China and even from some EU countries—to implement multilateral sanctions that Iran cannot ignore.

Trying to unilaterally isolate Iran further is unlikely to curb its nuclear program. And it won't make sure that Iran does not aid the proliferation of and access to weapons in Iraq. Veiled, and not-so-veiled, threats of military action aren't likely to work either. They are, however, likely to embolden Iran's hardliners as they seek to thwart moderates in that country who might otherwise encourage dialogue or political reform.

Instead of using the Iraq focused bilateral talks that have occurred in Baghdad as a platform from which to build, we are launching ourselves on to a collision course that may further endanger U.S. troops in Iraq in the near term. And that might only be the beginning. Our massive presence in Iraq undermines our ability to deal with Iran. It is draining our resources, exhausting our troops, exposing them to potential Iranian attacks, and undermining our credibility.

We should redeploy our troops from Iraq so that we can deal with Iran from a position of greater strength. Instead, the President is leading us deeper into the quagmire that his misguided policies in Iraq created.

It is essential that those of us here in Congress condemn the violent and defiant statements coming out of Iran. But we also have a responsibility as a coequal branch of government to respond to this administration's aggressive words, ill-considered decisions and ad hoc policies, particularly when they may undermine our own national security. Dealing with Iran is a daunting task. But we are only making it more difficult with our counterproductive policies of isolation and warmongering. We cannot again succumb to the shortsightedness that keeps us fixated on Iraq and drains the attention and resources needed to combat threats to our national security around the world.

CORPORATE AVERAGE FUEL ECONOMY STANDARDS

Mr. FEINGOLD. Mr. President, as Congress continues to work on comprehensive energy legislation, I want to discuss the importance to my constituents of enacting strong yet achievable corporate average fuel economy standards.

The final energy package needs to increase vehicle fuel economy requirements, but it should do so without undercutting hardworking families in Wisconsin and across the country. Between manufacturing, dealerships, and the automotive parts industry, there are upwards of 50,000 auto jobs in Wisconsin. Having grown up in Janesville—home to a General Motors plant—I understand how important the auto industry is to the State's economy and its communities. For far too long, under different administrations and different Congresses, the U.S. has pursued trade and other policies that have undermined our country's manufacturing base. Now, it is time to pay attention to the concerns of America's workers.

We can have strong and achievable CAFE standards. However, this will require several reasonable revisions to the Energy bill that the Senate passed. For starters, separate standards for cars and trucks need to be maintained. I recently organized a coalition of senators to write the Senate's Democratic leadership and urge it to maintain the distinction in current law between standards for cars and trucks. Passenger cars and light-duty trucks are inherently different. They should have

separate fuel economy standards. Unfortunately the Senate's CAFE language is unclear in this regard, providing little certainty on how the Department of Transportation will interpret this provision. Congress must provide the necessary certainty.

In order to ensure the Energy bill takes the right approach on CAFE standards, I have also joined colleagues in calling for a formal House-Senate conference to meet to draft the final bill. We should not abandon the normal legislative process on such an important issue and resort to informal, backroom dealmaking. I understand that there are still objections to convening a conference and I hope that those will be resolved soon.

Since the Senate considered the Energy bill, I have worked to ensure that the final version includes a CAFE standard that supports working families in Janesville and elsewhere. When the Senate considered the bill earlier this year, I supported the reasonable Pryor-Bond-Levin amendment to increase CAFE standards, and I was disappointed that it was never brought to a vote. I continue to work with them and other colleagues to make sure that Congress strikes the right balance on this important issue.

As the Congress works to finalize its comprehensive energy legislation, I urge my colleagues to help set strong yet achievable vehicle fuel economy requirements. We can increase CAFE standards while also ensuring that my hometown of Janesville—and hometowns like it across the country—still has the family-supporting jobs that are vital to the strength of the community.

NATIONAL RADIATION PROTECTION PROFESSIONALS WEEK

Mr. INHOFE. Mr. President, I wish to honor the members of the radiation protection profession and to recognize that the Conference of Radiation Control Program Directors and the Health Physics Society have resolved that November 4–10, 2007, should be named National Radiation Protection Professionals Week.

Since Wilhelm Conrad Roentgen's discovery of x-rays on November 8, 1895, the use of radiation has become vital in the Nation's health care, defense, security, energy, and industrial programs. However, if misused, this vital technology can harm and injure those using it or benefiting from it. Members of the radiation protection profession make it their life's work to allow government, medicine, academia, and industry to safely use radiation. By providing the necessary leadership, these professionals protect people from radiation hazards thus enabling society to reap benefits of this remarkable technology. I encourage all citizens to recognize the valuable resource represented by their professional scientific organizations, such as the Conference of Radiation Control Program Directors, the Health Physics, the National Registry of Radiation Protection Technologies, and the American Association of Physicists in Medicine. I deeply appreciate the commitment of these professionals and professional organization, and their contribution to our Nation and the world. I invite my colleagues to join me in celebrating National Radiation Protection Professionals Week.

I ask that both of their resolutions be printed in the RECORD at this time.

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

RESOLUTION OF THE HEALTH PHYSICS SOCIETY

Whereas, Wilhelm Conrad Roentgen discovered X-rays on November 8, 1895; and

Whereas, radiation is a useful and necessary part of our modern world; and

Whereas, radiation exposure can be harmful to people; and

Whereas, Radiation Protection Professionals work with government, industry, medical, educational, and private sources to bring the benefits of radiation to the public while minimizing the hazards of radiation exposure; and

Whereas, the Health Physics Society Board of Directors supports efforts to encourage all citizens to recognize the importance of Radiation Protection Professionals who provide necessary leadership in protecting the public from the hazards associated with the use of radiation: now be it

Resolved, That November 4–10, 2007 is National Radiation Protection Professionals Week.

That the week-long observance is dedicated to recognizing Radiation Protection Professionals for their contributions to public safety.

CONFERENCE OF RADIATION CONTROL PROGRAM DIRECTORS, INC., RESOLUTION

Whereas, Wilhelm Conrad Roentgen discovered X-rays on November 8, 1895; and

Whereas, radiation is a useful and necessary part of our modern world; and

Whereas, radiation exposure can be harmful to people; and

Whereas, Radiation Protection Professionals work with government, industry, medical, educational, and private sources to bring the benefits of radiation to the public while minimizing the hazards of radiation exposure; and

Whereas, the Conference of Radiation Control Program Directors, Inc. supports efforts to encourage all citizens to recognize the importance of Radiation Protection Professionals who provide necessary leadership in protecting the public from the hazards associated with the use of radiation: Now be it

Resolved, That November 4–10 is National Radiation Protection Professionals Week.

That the week-long observance is dedicated to recognizing Radiation Protection Professionals for their contributions to public safety.

HONORING JACK AND LOLA BRADLEY

Mr. BARRASSO. Mr. President, I rise today to honor Jack and Lola Bradley who will celebrate the 70th anniversary of their wedding during Thanksgiving week.

On November 20, 1937, Jack Bradley and Lola Davis made a commitment to one another to become lifelong partners. True to their word, they have remained as husband and wife for 70 years.

Jack met Lola in Cheyenne, WY, while they were students at Cheyenne High School. The story goes that it was love at first sight. The couple maintained their relationship while Jack went to the University of Wyoming and Lola finished up her high school education.

They started their lives together by moving to Newcastle, WY, to run the family business, Manewal Bradley Refinery—and they remain active in the operation today. They raised three children: Linda, Jack and Lolly. Jack and Lola are respected members of the community. They've supported local charities, they donated land for a city park, and even allowed the use of their property for a community baseball diamond.

Every candidate for public office in Wyoming knows Jack and Lola. They are the go-to people in Weston County. During campaign season, Jack and Lola continue to provide advice, support, and time to candidates at all levels of government.

Through the challenges of running a business, raising a family, and serving their community, it was the undying love for each other that made such a strong relationship that it would last well into the 21st century. I am pleased to take this moment to express my congratulations to Jack and Lola and join with their family and friends in wishing them the very best 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.)

REPORT ON THE CONTINUATION OF THE NATIONAL EMERGENCY WITH RESPECT TO THE PROLIFERATION OF WEAPONS OF MASS DESTRUCTION THAT WAS DECLARED IN EXECUTIVE ORDER 12938 ON NOVEMBER 14, 1994—PM 32

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

To the Congress of the United States:

In accordance with section 202(d) of the National Emergencies Act (50

U.S.C. 1622(d)), I transmit herewith notice of a 1-year continuation of the national emergency with respect to the proliferation of weapons of mass destruction that was declared in Executive Order 12938 of November 14, 1994, as amended.

GEORGE W. BUSH.

THE WHITE HOUSE, *November 8, 2007.*

REPORT ON THE CONTINUATION OF THE NATIONAL EMERGENCY WITH RESPECT TO IRAN THAT WAS DECLARED IN EXECUTIVE ORDER 12170 ON NOVEMBER 14, 1979—PM 33

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

To the Congress of the United States:

Section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)) provides for the automatic termination of a national emergency unless, prior to the anniversary date of its declaration, the President publishes in the *Federal Register* and transmits to the Congress a notice stating that the emergency is to continue in effect beyond the anniversary date. In accordance with this provision, I have sent the enclosed notice to the *Federal Register* for publication, stating that the Iran emergency declared in Executive Order 12170 on November 14, 1979, is to continue in effect beyond November 14, 2007.

Our relations with Iran have not yet returned to normal, and the process of implementing the January 19, 1981 agreements with Iran is still underway. For these reasons, I have determined that it is necessary to continue the national emergency declared on November 14, 1979, with respect to Iran, beyond November 14, 2007.

GEORGE W. BUSH.

THE WHITE HOUSE, *November 8, 2007.*

MESSAGES FROM THE HOUSE

At 9:47 a.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has passed the bill (S. 2265) to extend the existing provisions regarding the eligibility for essential air service subsidies through fiscal year 2008, with amendments, in which it requests the concurrence of the Senate.

The message also announced that the House disagrees to the amendment of the Senate to the bill (H.R. 1429) to reauthorize the Head Start Act, to improve program quality, to expand access, and for other purposes, and agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and appoints Messrs. GEORGE MILLER of California, KILDEE, Ms. WOOLSEY, Messrs. DAVIS of Illinois, GRIJALVA, Ms. LINDA T. SÁNCHEZ of California, Messrs. SARBANES, SESTAK, LOEBSACK, Ms. HIRONO, Ms. SHEA-PORTER, Messrs. MCKEON, CASTLE, Messrs. Fortuño, BISHOP of Utah, KELLER of Florida, WILSON of South Carolina, BOUSTANY, and HELLER of Nevada as managers of the conference on the part of the House.

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

H.R. 1119. An act to amend title 36, United States Code, to revise the congressional charter of the Military Order of the Purple Heart of the United States of America, Incorporated, to authorize associate membership in the corporation for the spouse and siblings of a recipient of the Purple Heart medal.

H.R. 2884. An act to assist members of the Armed Forces in obtaining United States citizenship, and for other purposes.

H.R. 3495. An act to establish a National Commission on Children and Disasters, and for other purposes.

H.R. 3866. An act to reauthorize certain programs under the Small Business Act for each of fiscal years 2008 and 2009.

H.R. 3997. An act to amend the Internal Revenue Code of 1986 to provide earnings assistance and tax relief to members of the uniformed services, volunteer firefighters, and Peace Corps volunteers, and for other purposes.

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

H. Con. Res. 162. Concurrent resolution expressing the sense of Congress that Congress and the President should increase basic pay for members of the Armed Forces.

At 1:05 p.m., a message from the House of Representatives, delivered by Ms. Niland, 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. 3685. An act to prohibit employment discrimination on the basis of sexual orientation.

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. 236. Concurrent resolution recognizing the close relationship between the United States and the Republic of San Marino.

At 2:07 p.m, a message from the House of Representatives, delivered by Mrs. Cole, one of its reading clerks, announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 3222) making appropriations for the Department of Defense for the fiscal year ending September 30, 2008, and for other purposes.

At 3:55 p.m., a message from the House of Representatives, delivered by Mrs. Cole, one of its reading clerks, announced that the House disagrees to the amendment of the Senate to the bill (H.R. 3074) making appropriations for the Departments of Transportation, and Housing and Urban Development, and related agencies for the fiscal year ending September 30, 2008, and for other purposes, and agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and appoints Mr. OLVER, Mr. PASTOR, Mr. RODRIGUEZ, Ms. KAPTUR, Mr. PRICE of North Carolina, Mr. CRAMER, Ms. ROYBAL-ALLARD, Mr. BERRY, Mr. OBEY, Mr. KNOLLENBERG, Mr. WOLF, Mr. ADERHOLT, Mr. WALSH of New York, Mr. GOODE, and Mr. LEWIS of California as the managers of the conference on the part of the House.

At 8:35 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House agrees to the amendment of the Senate to the bill (H.R. 3043) making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies for the fiscal year ending September 30, 2008.

MEASURES REFERRED

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

H.R. 2884. An act to assist members of the Armed Forces in obtaining United States citizenship, and for other purposes; to the Committee on the Judiciary.

The following bill was read, and referred as indicated:

H.R. 767. An act to protect, conserve, and restore native fish, wildlife, and their natural habitats at national wildlife refuges through cooperative, incentive-based grants to control, mitigate, and eradicate harmful nonnative species, and for other purposes; to the Committee on Environment and Public Works.

The following concurrent resolutions were read, and referred as indicated:

H. Con. Res. 162. Concurrent resolution expressing the sense of Congress that Congress and the President should increase basic pay for members of the Armed Forces; to the Committee on Armed Services.

H. Con. Res. 236. Concurrent resolution recognizing the close relationship between the United States and the Republic of San Marino; to the Committee on Foreign Relations.

MEASURES DISCHARGED

The following measure was discharged from the Committee on Energy and Natural Resources by unanimous consent, and referred as indicated:

H.R. 767. An act to protect, conserve, and restore native fish, wildlife, and their natural habitats at national wildlife refuges through cooperative, incentive-based grants to control, mitigate, and eradicate harmful nonnative species, and for other purposes; to the Committee on Environment and Public Works.

MEASURES PLACED ON THE CALENDAR

The following bill was read the second time, and placed on the calendar:

S. 2318. A bill to amend the Internal Revenue Code of 1986 to repeal the individual alternative minimum tax and to permanently

extend the reductions in income tax rates, and for other purposes.

The following bill was read the first and second times by unanimous consent, and placed on the calendar:

H.R. 1119. An act to amend title 36, United States Code, to revise the congressional charter of the Military Order of the Purple Heart of the United States of America, Incorporated, to authorize associate membership in the corporation for the spouse and siblings of a recipient of the Purple Heart medal.

MEASURES READ THE FIRST TIME

The following bills were read the first time:

H.R. 3495. An act to establish a National Commission on Children and Disasters, and for other purposes.

H.R. 3685. An act to prohibit employment discrimination on the basis of sexual orientation.

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–3886. A communication from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Asian Longhorned Beetle; Additions to Quarantined Areas'' (Docket No. APHIS–2006–0127) received on November 6, 2007; to the Committee on Agriculture, Nutrition, and Forestry.

EC–3887. A communication from the Director, Defense Procurement and Acquisition Policy, Department of Defense, transmitting, pursuant to law, the report of a rule entitled ''Waiver of Specialty Metals Restriction for Acquisition of Commercially Available Off-the-Shelf Items'' (DFARS Case 2007–D013) received on November 2, 2007; to the Committee on Armed Services.

EC–3888. A communication from the General Counsel, National Credit Union Administration, transmitting, pursuant to law, the report of a rule entitled ''Management Official Interlocks Threshold Change'' (12 C.F.R. Section 701.23) received on October 30, 2007; to the Committee on Banking, Housing, and Urban Affairs.

EC–3889. A communication from the Counsel for Legislation and Regulations, Office of Public and Indian Housing, Department of Housing and Urban Development, transmitting, pursuant to law, the report of a rule entitled ''Use of Indian Housing Block Grant Funds for Rental Assistance in Low-Income Housing Tax Credit Projects'' (RIN2577–AC61) received on November 2, 2007; to the Committee on Banking, Housing, and Urban Affairs.

EC–3890. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Allied Ag Cat Productions, Inc. G–164 Series Airplanes'' ((RIN2120–AA64)(Docket No. 2007–CE–034)) received on October 30, 2007; to the Committee on Commerce, Science, and Transportation.

EC–3891. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Airbus Model A330–201, –202, –203, –223, –243, –301, –321, –322, –323, –341, –342, and –343 Airplanes; and Model A340–200 and –300 Series Airplanes'' ((RIN2120–AA64)(Docket No. 2006–NM–261)) received on October 30, 2007; to the Committee on Commerce, Science, and Transportation.

EC–3892. A communication from the Regulatory Ombudsman, Federal Motor Carrier Safety Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Parts and Accessories Necessary for Safe Operation; Fire Extinguisher Exception for Driveaway–Towaway Operations'' (RIN2126–AB08) received on October 30 , 2007; to the Committee on Commerce, Science, and Transportation.

EC–3893. 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 ''2007 Base Period T–Bill Rate'' (Rev. Rul. 2007–64) received on November 6, 2007; to the Committee on Finance.

EC–3894. A communication from the Assistant Secretary, Office of Legislative Affairs, Department of State, transmitting, pursuant to law, weekly reports relative to post–liberation Iraq covering the period from August 15, 2007, to October 15, 2007; to the Committee on Foreign Relations.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. BYRD, from the Committee on Appropriations:

Special Report entitled ''Further Revised Allocation to Subcommittees of Budget Totals From the Concurrent Resolution, Fiscal Year 2008'' (Rept. No. 110–226).

EXECUTIVE REPORT OF COMMITTEE

The following executive report of a nomination was submitted:

By Mr. LEAHY for the Committee on the Judiciary.

Michael J. Sullivan, of Massachusetts, to be Director, Bureau of Alcohol, Tobacco, Firearms, and Explosives.

(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 Mrs. MCCASKILL (for herself, Ms. COLLINS, Mr. LIEBERMAN, and Mr. COBURN):

S. 2324. A bill to amend the Inspector General Act of 1978 (5 U.S.C. App.) to enhance the Offices of the Inspectors General, to create a Council of the Inspectors General on Integrity and Efficiency, and for other purposes; to the Committee on Homeland Security and Governmental Affairs.

By Mr. VOINOVICH:

S. 2325. A bill to modernize and update the National Housing Act and enable the Federal Housing Administration to use risk-based pricing to more effectively reach underserved borrowers, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. BROWN (for himself and Mrs. HUTCHISON):

S. 2326. A bill to improve the safety of motorcoaches, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. REID (for Mr. DODD):

S. 2327. A bill to amend the Internal Revenue Code of 1986 to provide a credit against tax for increased homeowners insurance premiums suffered by certain coastal homeowners or resulting from hurricane events; to the Committee on Finance.

By Mr. REID (for Mr. DODD):

S. 2328. A bill to establish a homeowner mitigation loan program within the Federal Emergency Management Agency to promote pre-disaster property mitigation measures; to the Committee on Homeland Security and Governmental Affairs.

By Mr. MENENDEZ (for himself and Mr. LAUTENBERG):

S. 2329. A bill to establish the Thomas Edison National Historical Park in the State of New Jersey as the successor to the Edison National Historic Site; to the Committee on Energy and Natural Resources.

By Mr. REID (for Mr. OBAMA (for himself and Mr. MENENDEZ)):

S. 2330. A bill to authorize a pilot program within the Departments of Veterans Affairs and Housing and Urban Development with the goal of preventing at-risk veterans and veteran families from falling into homelessness, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. WARNER (for himself and Mr. WEBB):

S. 2331. A bill to exclude from gross income payments from the Hokie Spirit Memorial Fund to the victims of the tragic event, loss of life and limb, at Virginia Polytechnic Institute & State University; to the Committee on Finance.

By Mr. DORGAN (for himself, Mr. LOTT, Mr. OBAMA, Ms. SNOWE, Mr. KERRY, Mr. NELSON of Florida, Ms. CANTWELL, Mrs. FEINSTEIN, Mr. BIDEN, and Mrs. CLINTON):

S. 2332. A bill to promote transparency in the adoption of new media ownership rules by the Federal Communications Commission, and to establish an independent panel to make recommendations on how to increase the representation of women and minorities in broadcast media ownership; to the Committee on Commerce, Science, and Transportation.

By Mr. KENNEDY:

S. 2333. A bill to amend the Public Health Services Act to reauthorize the Community Health Centers program, the National Health Service Corps, and rural health care programs; to the Committee on Health, Education, Labor, and Pensions.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

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

By Mr. COLEMAN (for himself, Mrs. DOLE, Mr. MCCONNELL, Mr. LOTT, Mr. ISAKSON, Mr. DEMINT, Mr. MARTINEZ, Mr. ROBERTS, Mr. CHAMBLISS, Mr. VITTER, Mr. ALEXANDER, Mr. BURR, Mr. BOND, Mr. INHOFE, Mr. COBURN, Mr. GRAHAM, Mr. GREGG, Mr. ALLARD, and Mr. CORKER):

S. Res. 371. A resolution expressing the sense of the Senate regarding the issuance of State driver's licenses and other government-issued photo identification to illegal aliens; to the Committee on the Judiciary.

By Mr. KERRY (for himself, Mr. BIDEN, Mr. OBAMA, Mr. CASEY, and Mr. DURBIN):

S. Res. 372. A resolution expressing the sense of the Senate on the declaration of a state of emergency in Pakistan; to the Committee on Foreign Relations.

By Mr. SMITH (for himself, Mr. AKAKA, and Mr. COLEMAN):

S. Res. 373. A resolution encouraging all employers to target veterans for recruitment and to provide preference in hiring to qualified veterans; considered and agreed to.

By Ms. LANDRIEU:

S. Res. 374. A resolution expressing support for designation of a National Veterans History Project Week to encourage public participation in a nationwide project that collects and preserves the stories of the men and women who served our Nation in times of war and conflict; considered and agreed to.

ADDITIONAL COSPONSORS

S. 548

At the request of Mr. LEAHY, the name of the Senator from Florida (Mr. NELSON) was added as a cosponsor of S. 548, a bill to amend the Internal Revenue Code of 1986 to provide that a deduction equal to fair market value shall be allowed for charitable contributions of literary, musical, artistic, or scholarly compositions created by the donor.

S. 584

At the request of Mrs. LINCOLN, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 584, a bill to amend the Internal Revenue Code of 1986 to modify the rehabilitation credit and the low-income housing credit.

S. 594

At the request of Mrs. FEINSTEIN, the name of the Senator from Maryland (Mr. CARDIN) was added as a cosponsor of S. 594, a bill to limit the use, sale, and transfer of cluster munitions.

S. 597

At the request of Mrs. FEINSTEIN, the name of the Senator from Oregon (Mr. WYDEN) was added as a cosponsor of S. 597, a bill to extend the special postage stamp for breast cancer research for 2 years.

S. 616

At the request of Ms. COLLINS, the name of the Senator from South Carolina (Mr. GRAHAM) was added as a cosponsor of S. 616, a bill to promote health care coverage parity for individuals participating in legal recreational activities or legal transportation activities.

S. 714

At the request of Mr. AKAKA, the names of the Senator from New Jersey (Mr. MENENDEZ) and the Senator from Michigan (Mr. LEVIN) were added as cosponsors of S. 714, a bill to amend the Animal Welfare Act to ensure that all dogs and cats used by research facilities are obtained legally.

S. 881

At the request of Mrs. LINCOLN, the names of the Senator from Colorado (Mr. SALAZAR) and the Senator from Vermont (Mr. SANDERS) were added as cosponsors of S. 881, a bill to amend the Internal Revenue Code of 1986 to extend and modify the railroad track maintenance credit.

S. 911

At the request of Mr. REED, the name of the Senator from Washington (Mrs. MURRAY) was added as a cosponsor of S. 911, a bill to amend the Public Health Service Act to advance medical research and treatments into pediatric cancers, ensure patients and families have access to the current treatments and information regarding pediatric cancers, establish a population-based national childhood cancer database, and promote public awareness of pediatric cancers.

S. 960

At the request of Mrs. CLINTON, the name of the Senator from Indiana (Mr. BAYH) was added as a cosponsor of S. 960, a bill to establish the United States Public Service Academy.

S. 1027

At the request of Mr. KOHL, the name of the Senator from New Jersey (Mr. MENENDEZ) was added as a cosponsor of S. 1027, a bill to prevent tobacco smuggling, to ensure the collection of all tobacco taxes, and for other purposes.

S. 1494

At the request of Mr. DOMENICI, the name of the Senator from Texas (Mrs. HUTCHISON) was added as a cosponsor of S. 1494, a bill to amend the Public Health Service Act to reauthorize the special diabetes programs for Type I diabetes and Indians under that Act.

S. 1588

At the request of Ms. LANDRIEU, the name of the Senator from Ohio (Mr. BROWN) was added as a cosponsor of S. 1588, a bill to amend the Public Health Service Act, the Employee Retirement Income Security Act of 1974, and the Internal Revenue Code of 1986 to require that group and individual health insurance coverage and group health plans provide coverage for treatment of a minor child's congenital or developmental deformity or disorder due to trauma, infection, tumor, or disease.

S. 1661

At the request of Mr. DORGAN, the name of the Senator from Pennsylvania (Mr. SPECTER) was added as a cosponsor of S. 1661, a bill to communicate United States travel policies and improve marketing and other activities designed to increase travel in the United States from abroad.

S. 1679

At the request of Ms. LANDRIEU, the name of the Senator from California (Mrs. FEINSTEIN) was added as a cosponsor of S. 1679, a bill to provide that the great hall of the Capitol Visitor Center shall be known as Emancipation Hall.

S. 1795

At the request of Mr. KENNEDY, the name of the Senator from New Hampshire (Mr. SUNUNU) was added as a cosponsor of S. 1795, a bill to improve access to workers' compensation programs for injured Federal employees.

S. 1871

At the request of Mr. KENNEDY, the names of the Senator from Pennsylvania (Mr. SPECTER) and the Senator from Illinois (Mr. DURBIN) were added as cosponsors of S. 1871, a bill to provide for special transfers of funds to States to promote certain improvements in State unemployment compensation laws.

S. 1878

At the request of Mr. WEBB, the names of the Senator from Missouri (Mr. BOND) and the Senator from Rhode Island (Mr. WHITEHOUSE) were added as cosponsors of S. 1878, a bill to authorize grants for contributions toward the establishment of the Woodrow Wilson Presidential Library.

S. 1905

At the request of Ms. KLOBUCHAR, the name of the Senator from Colorado (Mr. ALLARD) was added as a cosponsor of S. 1905, a bill to provide for a rotating schedule for regional selection of delegates to a national Presidential nominating convention, and for other purposes.

S. 1958

At the request of Mr. CONRAD, the name of the Senator from Texas (Mrs. HUTCHISON) was added as a cosponsor of S. 1958, a bill to amend title XVIII of the Social Security Act to ensure and foster continued patient quality of care by establishing facility and patient criteria for long-term care hospitals and related improvements under the Medicare program.

S. 1965

At the request of Mr. STEVENS, the name of the Senator from Minnesota (Ms. KLOBUCHAR) was added as a cosponsor of S. 1965, a bill to protect children from cybercrimes, including crimes by online predators, to enhance efforts to identify and eliminate child pornography, and to help parents shield their children from material that is inappropriate for minors.

S. 1970

At the request of Ms. LANDRIEU, her name was added as a cosponsor of S. 1970, a bill to establish a National Commission on Children and Disasters, a National Resource Center on Children and Disasters, and for other purposes.

S. 1996

At the request of Mr. BINGAMAN, the name of the Senator from Minnesota (Ms. KLOBUCHAR) was added as a cosponsor of S. 1996, a bill to reauthorize the Enhancing Education Through Technology Act of 2001, and for other purposes.

S. 2071

At the request of Mrs. FEINSTEIN, the names of the Senator from Massachusetts (Mr. KERRY) and the Senator from Missouri (Mrs. MCCASKILL) were added as cosponsors of S. 2071, a bill to enhance the ability to combat methamphetamine.

S. 2136

At the request of Mr. DURBIN, the name of the Senator from New Jersey

(Mr. MENENDEZ) was added as a cosponsor of S. 2136, a bill to address the treatment of primary mortgages in bankruptcy, and for other purposes.

S. 2140

At the request of Mr. DORGAN, the name of the Senator from Nevada (Mr. REID) was added as a cosponsor of S. 2140, a bill to award a Congressional Gold Medal to Francis Collins, in recognition of his outstanding contributions and leadership in the fields of medicine and genetics.

S. 2220

At the request of Mr. AKAKA, the name of the Senator from Florida (Mr. NELSON) was added as a cosponsor of S. 2220, a bill to amend the Outdoor Recreation Act of 1963 to authorize certain appropriations.

S. 2246

At the request of Mr. COLEMAN, the name of the Senator from Connecticut (Mr. LIEBERMAN) was added as a cosponsor of S. 2246, a bill to amend the Higher Education Act of 1965 to extend eligibility for Federal TRIO programs to members of the reserve components serving on active duty in support of contingency operations.

S. 2250

At the request of Mr. CRAPO, the name of the Senator from Louisiana (Mr. VITTER) was added as a cosponsor of S. 2250, a bill to amend title XVIII of the Social Security Act to modernize payments for ambulatory surgical centers under the Medicare Program.

S. 2257

At the request of Mr. MCCONNELL, the name of the Senator from Nebraska (Mr. HAGEL) was added as a cosponsor of S. 2257, a bill to impose sanctions on officials of the State Peace and Development Council in Burma, to amend the Burmese Freedom and Democracy Act of 2003 to prohibit the importation of gemstones and hardwoods from Burma, to promote a coordinated international effort to restore civilian democratic rule to Burma, and for other purposes.

S. 2317

At the request of Mr. LEAHY, the name of the Senator from Pennsylvania (Mr. SPECTER) was added as a cosponsor of S. 2317, a bill to amend titles 17 and 18, United States Code, and the Trademark Act of 1946 to strengthen and harmonize the protection of intellectual property, and for other purposes.

S. 2320

At the request of Mr. DURBIN, the name of the Senator from Michigan (Mr. LEVIN) was added as a cosponsor of S. 2320, a bill to amend title XVIII of the Social Security Act to provide continued entitlement to coverage for immunosuppressive drugs furnished to beneficiaries under the Medicare Program that have received a kidney transplant and whose entitlement to coverage would otherwise expire, and for other purposes.

S. RES. 241

At the request of Mr. BROWN, the name of the Senator from Connecticut (Mr. DODD) was added as a cosponsor of S. Res. 241, a resolution expressing the sense of the Senate that the United States should reaffirm the commitments of the United States to the 2001 Doha Declaration on the TRIPS Agreement and Public Health and to pursuing trade policies that promote access to affordable medicines.

S. RES. 358

At the request of Mr. SMITH, the name of the Senator from Arizona (Mr. KYL) was added as a cosponsor of S. Res. 358, a resolution expressing the importance of friendship and cooperation between the United States and Turkey.

S. RES. 366

At the request of Mr. BAUCUS, the names of the Senator from Colorado (Mr. ALLARD), the Senator from Minnesota (Mr. COLEMAN), the Senator from Wisconsin (Mr. FEINGOLD), the Senator from California (Mrs. FEINSTEIN), the Senator from Nebraska (Mr. NELSON), the Senator from West Virginia (Mr. ROCKEFELLER), the Senator from Louisiana (Mr. VITTER) and the Senator from Oregon (Mr. WYDEN) were added as cosponsors of S. Res. 366, a resolution designating November 2007 as ''National Methamphetamine Awareness Month'', to increase awareness of methamphetamine abuse.

S. RES. 368

At the request of Mr. KERRY, the names of the Senator from Washington (Ms. CANTWELL), the Senator from Hawaii (Mr. INOUYE) and the Senator from California (Mrs. BOXER) were added as cosponsors of S. Res. 368, a resolution expressing the sense of the Senate that, at the 20th Regular Meeting of the International Commission on the Conservation of Atlantic Tunas, the United States should pursue a moratorium on the eastern Atlantic and Mediterranean bluefin tuna fishery to ensure control of the fishery and further facilitate recovery of the stock, pursue strengthened conservation and management measures to facilitate the recovery of the Atlantic bluefin tuna, and seek a review of compliance by all Nations with the International Commission for the Conservation of Atlantic Tunas' conservation and management recommendation for Atlantic bluefin tuna and other species, and for other purposes.

AMENDMENT NO. 3501

At the request of Mr. BARRASSO, the names of the Senator from Utah (Mr. HATCH) and the Senator from South Dakota (Mr. JOHNSON) were added as cosponsors of amendment No. 3501 intended to be proposed to H.R. 2419, a bill to provide for the continuation of agricultural programs through fiscal year 2012, and for other purposes.

At the request of Mr. BINGAMAN, his name was added as a cosponsor of amendment No. 3501 intended to be proposed to H.R. 2419, supra.

AMENDMENT NO. 3508

At the request of Mr. DORGAN, the names of the Senator from Illinois (Mr. OBAMA) and the Senator from Nebraska (Mr. HAGEL) were added as cosponsors of amendment No. 3508 proposed to H.R. 2419, a bill to provide for the continuation of agricultural programs through fiscal year 2012, and for other purposes.

AMENDMENT NO. 3522

At the request of Mr. CASEY, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of amendment No. 3522 intended to be proposed to H.R. 2419, a bill to provide for the continuation of agricultural programs through fiscal year 2012, and for other purposes.

AMENDMENT NO. 3541

At the request of Mr. CRAIG, the name of the Senator from Mississippi (Mr. COCHRAN) was added as a cosponsor of amendment No. 3541 intended to be proposed to H.R. 2419, a bill to provide for the continuation of agricultural programs through fiscal year 2012, and for other purposes.

AMENDMENT NO. 3543

At the request of Ms. STABENOW, the names of the Senator from South Dakota (Mr. JOHNSON) and the Senator from Pennsylvania (Mr. SPECTER) were added as cosponsors of amendment No. 3543 intended to be proposed to H.R. 2419, a bill to provide for the continuation of agricultural programs through fiscal year 2012, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mrs. MCCASKILL (for herself, Ms. COLLINS, Mr. LIEBERMAN, and Mr. COBURN):

S. 2324. A bill to amend the Inspector General Act of 1978 (5 U.S.C. App.) to enhance the Offices of the Inspectors General, to create a Council of the Inspectors General on Integrity and Efficiency, and for other purposes; to the Committee on Homeland Security and Governmental Affairs.

Mrs. MCCASKILL. Mr. President, I am pleased today to join my colleagues Senators COLLINS, LIEBERMAN and COBURN in introducing the Inspector General Reform Act of 2007. This bill represents a strong bipartisan effort to strengthen the independence and integrity of our nation's Inspectors General, who represent one of our strongest tools in combating waste, fraud and abuse throughout our government.

When I first came to the Senate this January, I made it one of my top priorities to become actively involved in oversight and accountability in Congress and in the Federal Government. I was thrilled to have been given an appointment to the Homeland Security and Government Affairs Committee, which is ably run by Chairman LIEBERMAN. I was proud to have been able to cosponsor S. 680, the bill authored by Senator COLLINS which included not only extensive reforms of Government contracting practices, but also included many provisions geared towards improving the Inspector General system. I must thank Senator COLLINS especially for working with me on

the Inspector General legislation, which incorporates not only many of her reform ideas, but also those introduced in the House by Representatives JIM COOPER of Tennessee in H.R. 928, which has passed that chamber by an overwhelming vote of 404 to 11.

My 8 years as State Auditor in Missouri has given me tremendous respect for auditors and investigators working to make sure Government is spending our taxpayer dollars wisely. While many people are aware of the great work done by the legislative branch's Government Accountability Office, very few people realize that there are Inspectors General in many of our most important agencies. These IGs report both to the Executive and Legislative branch, and work in the trenches in the agency, constantly ferreting out cases of fraud, waste, abuse, and other mismanagement. Their unique role, resting inside the very agency they are charged with auditing and investigating, often creates unavoidable tensions.

The goal of the first Inspector General Act, passed 30 years ago next year, was to create a system that would allow the IG to rest harmoniously in the agency but allow them to provide oversight of an agency's actions and duties free from interference.

For the most part, this system has worked. But we can do better to assure that Inspectors General are free of intimidation or inappropriate influence by the agencies they oversee. Recent news reports have noted that the CIA Inspector General, John Helgerson, is being investigated by his own agency, even though there is no apparent legal authority for such an investigation to take place. The Administrator for the General Services Administration has been openly critical of the GSA IG, and has tried to cut the responsibilities and the budget of that office. The State Department IG has answered charges that he has failed to investigate allegations of contracting fraud in Iraq and Afghanistan with the claim that he has not been provided enough money by his agency to do such an investigation.

Obviously, some changes are needed and our IG reform bill attempts to make them. For example, IGs currently request their budgets through their agencies and then the agency heads determine if that request is appropriate before sending their budgets to the White House and then on to Congress. No one in Congress has the ability to see how much an IG office truly needs to adequately fulfill its oversight duties. Our bill requires that IGs can attach comments to the agency's official budget request if he or she believes the funding the agency requested for its IG is not enough to do the job.

As more Executive agencies move to a pay for performance compensation system, bonuses given by the agency have become a bigger part of the total compensation for employees. Having the agency that you audit decide how much of a bonus you will receive is an obvious, unacceptable conflict of interest for Inspectors General. Many IGs refuse to take a bonus, and those who do accept them have myriad reasons for doing so. However, this practice will be forbidden under the new law. Given the negative impact on the compensation for Inspector General and the need to attract and retain the best and the brightest, the pay of presidentially appointed Inspectors General will be raised one level. For the other Executive IGs, their agencies will be directed to pay them the same or more than the total compensation received by other senior level employees. This system will end the possibility of an agency head trying to entice an IG to go easy on them, or to punish an IG who refuses to do so.

This bill also gives the IGs more security from the fear of losing one's job for the simple reason they are too good. Before any IG can be removed, the congressional committees of jurisdiction must be notified, in writing, of the intent to remove the IG, and the reasons for doing so. This notice must be received at least 30 days before the scheduled removal. Bringing transparency to this process should guarantee that no IG will be removed for the wrong reason.

I want to make sure that the good work of the IGs is readily accessible to the people who pay for it, the taxpayer. I was shocked to realize that many IGs did not post their reports on the web. At least one IG shop didn't even have a website. In this day and age the public, and Congress, should have timely and easy access to all the public reports produced by Inspectors General. This bill requires all reports which are open to the public to be posted on the web within three working days of their release. It also requires all IG shops to provide, on their websites, a method for anonymously reporting waste, fraud or abuse.

Finally, this bill codifies a council for the IGs to have as a resource. This council, which exists now only pursuant to Executive order, would provide a structure for IGs to pool their resources when it would effectively help them perform their mission, such as providing Government-wide training for investigators and auditors. It will also include an Integrity Committee that will investigate allegations made against Inspectors General and certain staff members. Congress would receive periodic reports from this committee on the number of investigations they have undertaken, the results of those investigations, and any action by the agency taken in response to the findings of the committee.

I want to make clear that I am one of the biggest fans of the current cadre of Inspectors General, with very few exceptions. I want to make sure these dedicated public servants are able to perform their duties free from interference. I am very proud to be part of the effort to make sure this happens, and again thank my colleagues Senators COLLINS, LIEBERMAN and COBURN for their hard work and dedication to this issue.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

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 ''Inspector General Reform Act of 2007''.

SEC. 2. APPOINTMENT AND QUALIFICATIONS OF INSPECTORS GENERAL.

Section 8G(c) of the Inspector General Act of 1978 (5 U.S.C. App.) is amended by adding at the end ''Each Inspector General shall be appointed without regard to political affiliation and solely on the basis of integrity and demonstrated ability in accounting, auditing, financial analysis, law, management analysis, public administration, or investigations.''.

SEC. 3. REMOVAL OF INSPECTORS GENERAL.

(a) ESTABLISHMENTS.—Section 3(b) of the Inspector General Act of 1978 (5 U.S.C. App.) is amended by striking the second sentence and inserting ''If an Inspector General is removed from office or is transferred to another position or location within an establishment, the President shall communicate in writing the reasons for any such removal or transfer to both Houses of Congress, not later than 30 days before the removal or transfer.''.

(b) DESIGNATED FEDERAL ENTITIES.—Section 8G(e) of the Inspector General Act of 1978 (5 U.S.C. App.) is amended by striking ''shall promptly communicate in writing the reasons for any such removal or transfer to both Houses of the Congress'' and inserting ''shall communicate in writing the reasons for any such removal or transfer to both Houses of Congress, not later than 30 days before the removal or transfer''.

(c) LEGISLATIVE AGENCIES.—

(1) LIBRARY OF CONGRESS.—Section 1307(c)(2) of the Legislative Branch Appropriations Act, 2006 (2 U.S.C. 185(c)(2)) is amended by striking the second sentence and inserting ''If the Inspector General is removed from office or is transferred to another position or location within the Library of Congress, the Librarian of Congress shall communicate in writing the reasons for any such removal or transfer to both Houses of Congress, not later than 30 days before the removal or transfer.''.

(2) CAPITOL POLICE.—Section 1004(b) of the Legislative Branch Appropriations Act, 2006 (2 U.S.C. 1909(b)) is amended by striking paragraph (3) and inserting the following:

''(3) REMOVAL.—The Inspector General may be removed or transferred from office before the expiration of his term only by the unanimous vote of all of the voting members of the Capitol Police Board. If an Inspector General is removed from office or is transferred to another position or location within the Capitol Police, the Capitol Police Board shall communicate in writing the reasons for any such removal or transfer to the Committee on Rules and Administration of the Senate, the Committee on House Administration of the House of Representatives, and the Committees on Appropriations of the Senate and the House of Representatives, not later than 30 days before the removal or transfer.''.

(3) GOVERNMENT PRINTING OFFICE.—Section 3902(b)(2) of title 44, United States Code, is amended by striking the second sentence and

inserting ''If the Inspector General is removed from office or is transferred to another position or location within the Government Printing Office, the Public Printer shall communicate in writing the reasons for any such removal or transfer to both Houses of Congress, not later than 30 days before the removal or transfer.''.

SEC. 4. PAY OF INSPECTORS GENERAL.

(a) INSPECTORS GENERAL AT LEVEL III OF EXECUTIVE SCHEDULE.—

(1) IN GENERAL.—Section 3 of the Inspector General Act of 1978 (5 U.S.C. App.), is amended by adding at the end the following:

''(e) The annual rate of basic pay for an Inspector General (as defined under section 11(3)) shall be the rate payable for level III of the Executive Schedule under section 5314 of title 5, United States Code, plus 3 percent.''.

(2) TECHNICAL AND CONFORMING AMENDMENTS.—Section 5315 of title 5, United States Code, is amended by striking the item relating to each of the following positions:

(A) Inspector General, Department of Education.

(B) Inspector General, Department of Energy.

(C) Inspector General, Department of Health and Human Services.

(D) Inspector General, Department of Agriculture.

(E) Inspector General, Department of Housing and Urban Development.

(F) Inspector General, Department of Labor.

(G) Inspector General, Department of Transportation.

(H) Inspector General, Department of Veterans Affairs.

(I) Inspector General, Department of Homeland Security.

(J) Inspector General, Department of Defense.

(K) Inspector General, Department of State.

(L) Inspector General, Department of Commerce.

(M) Inspector General, Department of the Interior.

(N) Inspector General, Department of Justice.

(O) Inspector General, Department of the Treasury.

(P) Inspector General, Agency for International Development.

(Q) Inspector General, Environmental Protection Agency.

(R) Inspector General, Export-Import Bank.

(S) Inspector General, Federal Emergency Management Agency.

(T) Inspector General, General Services Administration.

(U) Inspector General, National Aeronautics and Space Administration.

(V) Inspector General, Nuclear Regulatory Commission.

(W) Inspector General, Office of Personnel Management.

(X) Inspector General, Railroad Retirement Board.

(Y) Inspector General, Small Business Administration.

(Z) Inspector General, Tennessee Valley Authority.

(AA) Inspector General, Federal Deposit Insurance Corporation.

(BB) Inspector General, Resolution Trust Corporation.

(CC) Inspector General, Central Intelligence Agency.

(DD) Inspector General, Social Security Administration.

(EE) Inspector General, United States Postal Service.

(3) ADDITIONAL TECHNICAL AND CONFORMING AMENDMENT.—Section 194(b) of the National and Community Service Act of 1990 (42 U.S.C. 12651e(b)) is amended by striking paragraph (3).

(b) INSPECTORS GENERAL OF DESIGNATED FEDERAL ENTITIES.—Notwithstanding any other provision of law, the Inspector General of each designated Federal entity (as those terms are defined under section 8G of the Inspector General Act of 1978 (5 U.S.C. App.)) shall, for pay and all other purposes, be classified at a grade, level, or rank designation, as the case may be, at or above those of a majority of the senior level executives of that designated Federal entity (such as a General Counsel, Chief Information Officer, Chief Financial Officer, Chief Human Capital Officer, or Chief Acquisition Officer). The pay of an Inspector General of a designated Federal entity (as those terms are defined under section 8G of the Inspector General Act of 1978 (5 U.S.C. App.)) shall be not less than the average total compensation of the senior level executives of that designated Federal entity.

(c) SAVINGS PROVISION FOR NEWLY APPOINTED INSPECTORS GENERAL.—The provisions of section 3392 of title 5, United States Code, other than the terms ''performance awards'' and ''awarding of ranks'' in subsection (c)(1) of such section, shall apply to career appointees of the Senior Executive Service who are appointed to the position of Inspector General.

(d) SAVINGS PROVISION.—Nothing in this section shall have the effect of reducing the rate of pay of any individual serving on the date of enactment of this section as an Inspector General of—

(1) an establishment as defined under section 11(2) of the Inspector General Act of 1978 (5 U.S.C. App.);

(2) a designated Federal entity as defined under section 8G(2) of the Inspector General Act of 1978 (5 U.S.C. App.);

(3) a legislative agency; or

(4) any other entity of the Government.

SEC. 5. PROHIBITION OF CASH BONUS OR AWARDS.

Section 3 of the Inspector General Act of 1978 (5 U.S.C. App.) (as amended by section 4 of this Act) is further amended by adding at the end the following:

''(f) An Inspector General (as defined under section 8G(a)(6) or 11(3)) may not receive any cash award or cash bonus, including any cash award under chapter 45 of title 5, United States Code.''.

SEC. 6. SEPARATE COUNSEL TO SUPPORT INSPECTORS GENERAL.

(a) COUNSELS TO INSPECTORS GENERAL OF ESTABLISHMENT.—Section 3 of the Inspector General Act of 1978 (5 U.S.C. App.) (as amended by sections 4 and 5 of this Act) is further amended by adding at the end the following:

''(g) Each Inspector General shall, in accordance with applicable laws and regulations governing the civil service, obtain legal advice from a counsel either reporting directly to the Inspector General or another Inspector General.''.

(b) COUNSELS TO INSPECTORS GENERAL OF DESIGNATED FEDERAL ENTITIES.—Section 8G(g) of the Inspector General Act of 1978 (5 U.S.C. App.) is amended by adding at the end the following:

''(4) Each Inspector General shall, in accordance with applicable laws and regulations governing appointments within the designated Federal entity, appoint a Counsel to the Inspector General who shall report to the Inspector General or obtain the services of a counsel appointed by and directly reporting to another Inspector General or the Council of the Inspectors General on Integrity and Efficiency on a reimbursable basis.''.

SEC. 7. ESTABLISHMENT OF COUNCIL OF THE INSPECTORS GENERAL ON INTEGRITY AND EFFICIENCY.

(a) ESTABLISHMENT.—The Inspector General Act of 1978 (5 U.S.C. App.) is amended by redesignating sections 11 and 12 as sections 12 and 13, respectively, and by inserting after section 10 the following:

''SEC. 11. ESTABLISHMENT OF THE COUNCIL OF THE INSPECTORS GENERAL ON INTEGRITY AND EFFICIENCY.

''(a) ESTABLISHMENT AND MISSION.—

''(1) ESTABLISHMENT.—There is established as an independent entity within the executive branch the Council of the Inspectors General on Integrity and Efficiency (in this section referred to as the 'Council').

''(2) MISSION.—The mission of the Council shall be to—

''(A) address integrity, economy, and effectiveness issues that transcend individual Government agencies; and

''(B) increase the professionalism and effectiveness of personnel by developing policies, standards, and approaches to aid in the establishment of a well-trained and highly skilled workforce in the offices of the Inspectors General.

''(b) MEMBERSHIP.—

''(1) IN GENERAL.—The Council shall consist of the following members:

''(A) All Inspectors General whose offices are established under—

''(i) section 2; or

''(ii) section 8G.

''(B) The Inspectors General of the Office of the Director of National Intelligence and the Central Intelligence Agency.

''(C) The Controller of the Office of Federal Financial Management.

''(D) A senior level official of the Federal Bureau of Investigation designated by the Director of the Federal Bureau of Investigation.

''(E) The Director of the Office of Government Ethics.

''(F) The Special Counsel of the Office of Special Counsel.

''(G) The Deputy Director of the Office of Personnel Management.

''(H) The Deputy Director for Management of the Office of Management and Budget.

''(I) The Office of Inspectors General of the Library of Congress, Capitol Police, and the Government Printing Office.

''(J) Any other members designated by the President.

''(2) CHAIRPERSON AND EXECUTIVE CHAIRPERSON.—

''(A) EXECUTIVE CHAIRPERSON.—The Deputy Director for Management of the Office of Management and Budget shall be the Executive Chairperson of the Council.

''(B) CHAIRPERSON.—The Council shall elect 1 of the Inspectors General referred to in paragraph (1)(A) or (B) to act as Chairperson of the Council. The term of office of the Chairperson shall be 2 years.

''(3) FUNCTIONS OF CHAIRPERSON AND EXECUTIVE CHAIRPERSON.—

''(A) EXECUTIVE CHAIRPERSON.—The Executive Chairperson shall—

''(i) preside over meetings of the Council;

''(ii) provide to the heads of agencies and entities represented on the Council summary reports of the activities of the Council; and

''(iii) provide to the Council such information relating to the agencies and entities represented on the Council as assists the Council in performing its functions.

''(B) CHAIRPERSON.—The Chairperson shall—

''(i) convene meetings of the Council—

''(I) at least 6 times each year;

''(II) monthly to the extent possible; and

''(III) more frequently at the discretion of the Chairperson;

''(ii) exercise the functions and duties of the Council under subsection (c);

''(iii) appoint a Vice Chairperson to assist in carrying out the functions of the Council and act in the absence of the Chairperson, from a category of Inspectors General described in subparagraph (A)(i), (A)(ii), or (B) of paragraph (1), other than the category from which the Chairperson was elected;

''(iv) make such payments from funds otherwise available to the Council as may be necessary to carry out the functions of the Council;

''(v) select, appoint, and employ personnel as needed to carry out the functions of the Council subject to the availability of appropriations and the provisions of title 5, United States Code, governing appointments in the competitive service, and the provisions of chapter 51 and subchapter III of chapter 53 of such title, relating to classification and General Schedule pay rates;

''(vi) to the extent and in such amounts as may be provided in advance by appropriations Acts, enter into contracts and other arrangements with public agencies and private persons to carry out the functions and duties of the Council;

''(vii) establish, in consultation with the members of the Council, such committees as determined by the Chairperson to be necessary and appropriate for the efficient conduct of Council functions; and

''(viii) prepare and transmit a report annually on behalf of the Council to the President on the activities of the Council.

''(c) FUNCTIONS AND DUTIES OF COUNCIL.—

''(1) IN GENERAL.—The Council shall—

''(A) continually identify, review, and discuss areas of weakness and vulnerability in Federal programs and operations with respect to fraud, waste, and abuse;

''(B) develop plans for coordinated, governmentwide activities that address these problems and promote economy and efficiency in Federal programs and operations, including interagency and interentity audit, investigation, inspection, and evaluation programs and projects to deal efficiently and effectively with those problems concerning fraud and waste that exceed the capability or jurisdiction of an individual agency or entity;

''(C) develop policies that will aid in the maintenance of a corps of well-trained and highly skilled Office of Inspector General personnel;

''(D) maintain an Internet website and other electronic systems for the benefit of all Inspectors General, as the Council determines are necessary or desirable;

''(E) maintain 1 or more academies as the Council considers desirable for the professional training of auditors, investigators, inspectors, evaluators, and other personnel of the various offices of Inspector General;

''(F) submit recommendations of 3 individuals to the appropriate appointing authority for any appointment to an office of Inspector General described under subsection (b)(1)(A) or (B);

''(G) make such reports to Congress as the Chairperson determines are necessary or appropriate; and

''(H) perform other duties within the authority and jurisdiction of the Council, as appropriate.

''(2) ADHERENCE AND PARTICIPATION BY MEMBERS.—To the extent permitted under law, and to the extent not inconsistent with standards established by the Comptroller General of the United States for audits of Federal establishments, organizations, programs, activities, and functions, each member of the Council shall adhere to professional standards developed by the Council and participate in the plans, programs, and projects of the Council, as appropriate.

''(3) ADDITIONAL ADMINISTRATIVE AUTHORITIES.—

''(A) INTERAGENCY FUNDING.—Notwithstanding section 1532 of title 31, United States Code, or any other provision of law prohibiting the interagency funding of activities described under subclause (I) or (II) of clause (i), in the performance of the responsibilities, authorities, and duties of the Council—

''(i) the Executive Chairperson may authorize the use of interagency funding for—

''(I) Governmentwide training of employees of the Offices of the Inspectors General;

''(II) the functions of the Integrity Committee of the Council; and

''(III) any other authorized purpose determined by the Council; and

''(ii) upon the authorization of the Executive Chairperson, any department, agency, or entity of the United States Government shall fund or participate in the funding of such activities.

''(B) SUPERSEDING PROVISIONS.—No provision of law enacted after the date of enactment of this subsection shall be construed to limit or supersede the authority under paragraph (1), unless such provision makes specific reference to the authority in that paragraph.

''(4) EXISTING AUTHORITIES AND RESPONSIBILITIES.—The establishment and operation of the Council shall not affect—

''(A) the role of the Department of Justice in law enforcement and litigation;

''(B) the authority or responsibilities of any Government agency or entity; and

''(C) the authority or responsibilities of individual members of the Council.

''(d) INTEGRITY COMMITTEE.—

''(1) ESTABLISHMENT.—The Council shall have an Integrity Committee, which shall receive, review, and refer for investigation allegations of wrongdoing that are made against Inspectors General and certain staff members of the various Offices of Inspector General.

''(2) MEMBERSHIP.—The Integrity Committee shall consist of the following members:

''(A) The official of the Federal Bureau of Investigation serving on the Council, who shall serve as Chairperson of the Integrity Committee.

''(B) Three or more Inspectors General described in subparagraph (A) or (B) of subsection (b)(1) appointed by the Chairperson of the Council, representing both establishments and designated Federal entities (as that term is defined in section 8G(a)).

''(C) The Special Counsel of the Office of Special Counsel.

''(D) The Director of the Office of Government Ethics.

''(3) LEGAL ADVISOR.—The Chief of the Public Integrity Section of the Criminal Division of the Department of Justice, or his designee, shall serve as a legal advisor to the Integrity Committee.

''(4) REFERRAL OF ALLEGATIONS.—

''(A) REQUIREMENT.—An Inspector General shall refer to the Integrity Committee any allegation of wrongdoing against a staff member of the office of that Inspector General, if—

''(i) review of the substance of the allegation cannot be assigned to an agency of the executive branch with appropriate jurisdiction over the matter; and

''(ii) the Inspector General determines that—

''(I) an objective internal investigation of the allegation is not feasible; or

''(II) an internal investigation of the allegation may appear not to be objective.

''(B) DEFINITION.—In this paragraph the term 'staff member' means—

''(i) any employee of an Office of Inspector General who reports directly to an Inspector General; or

''(ii) who is designated by an Inspector General under subparagraph (C).

''(C) DESIGNATION OF STAFF MEMBERS.—Each Inspector General shall annually submit to the Chairperson of the Integrity Committee a designation of positions whose holders are staff members for purposes of subparagraph (B).

''(5) REVIEW OF ALLEGATIONS.—The Integrity Committee shall—

''(A) review all allegations of wrongdoing the Integrity Committee receives against an Inspector General, or against an employee of an Office of Inspector General;

''(B) refer any allegation of wrongdoing to the agency of the executive branch with appropriate jurisdiction over the matter; and

''(C) refer to the Chairperson of the Integrity Committee any allegation of wrongdoing determined by the Integrity Committee to be potentially meritorious that cannot be referred to an agency under subparagraph (B).

''(6) AUTHORITY TO INVESTIGATE ALLEGATIONS.—

''(A) REQUIREMENT.—The Chairperson of the Integrity Committee shall cause a thorough and timely investigation of each allegation referred under paragraph (5)(C) to be conducted in accordance with this paragraph.

''(B) RESOURCES.—At the request of the Chairperson of the Integrity Committee, the head of each agency or entity represented on the Council—

''(i) may provide resources necessary to the Integrity Committee; and

''(ii) may detail employees from that agency or entity to the Integrity Committee, subject to the control and direction of the Chairperson, to conduct an investigation under this subsection.

''(7) PROCEDURES FOR INVESTIGATIONS.—

''(A) STANDARDS APPLICABLE.—Investigations initiated under this subsection shall be conducted in accordance with the most current Quality Standards for Investigations issued by the Council or by its predecessors (the President's Council on Integrity and Efficiency and the Executive Council on Integrity and Efficiency).

''(B) ADDITIONAL POLICIES AND PROCEDURES.—

''(i) ESTABLISHMENT.—The Integrity Committee, in conjunction with the Chairperson of the Council, shall establish additional policies and procedures necessary to ensure fairness and consistency in—

''(I) determining whether to initiate an investigation;

''(II) conducting investigations;

''(III) reporting the results of an investigation; and

''(IV) providing the person who is the subject of an investigation with an opportunity to respond to any Integrity Committee report.

''(ii) SUBMISSION TO CONGRESS.—The Council shall submit a copy of the policies and procedures established under clause (i) to the congressional committees of jurisdiction.

''(C) REPORTS.—

''(i) POTENTIALLY MERITORIOUS ALLEGATIONS.—For allegations referred to under paragraph (5)(C), the Chairperson of the Integrity Committee shall make a report containing the results of the investigation of the Chairperson and shall provide such report to members of the Integrity Committee.

''(ii) ALLEGATIONS OF WRONGDOING.—For allegations referred to under paragraph (5)(B), the head of an agency shall make a report containing the results of the investigation and shall provide such report to members of the Integrity Committee.

''(8) ASSESSMENT AND FINAL DISPOSITION.—

''(A) IN GENERAL.—With respect to any report received under paragraph (7)(C), the Integrity Committee shall—

''(i) assess the report;

''(ii) forward the report, with the recommendations of the Integrity Committee, including those on disciplinary action, within 180 days (to the maximum extent practicable) after the completion of the investigation, to the Executive Chairperson of the Council and to the President (in the case of a report relating to an Inspector General of an establishment or any employee of that Inspector General) or the head of a designated Federal entity (in the case of a report relating to an Inspector General of such an entity or any employee of that Inspector General) for resolution; and

''(iii) submit to the congressional committees of jurisdiction an executive summary of such report and recommendations within 30 days after the submission of such report to the Executive Chairperson under clause (ii).

''(B) DISPOSITION.—The Executive Chairperson of the Council shall report to the Integrity Committee the final disposition of the matter, including what action was taken by the President or agency head.

''(9) ANNUAL REPORT.—The Council shall submit to Congress and the President by December 31 of each year a report on the activities of the Integrity Committee during the preceding fiscal year, which shall include the following:

''(A) The number of allegations received.

''(B) The number of allegations referred to other agencies, including the number of allegations referred for criminal investigation.

''(C) The number of allegations referred to the Chairperson of the Integrity Committee for investigation.

''(D) The number of allegations closed without referral.

''(E) The date each allegation was received and the date each allegation was finally disposed of.

''(F) In the case of allegations referred to the Chairperson of the Integrity Committee, a summary of the status of the investigation of the allegations and, in the case of investigations completed during the preceding fiscal year, a summary of the findings of the investigations.

''(G) Other matters that the Council considers appropriate.

''(10) REQUESTS FOR MORE INFORMATION.—With respect to paragraphs (8) and (9), the Council shall provide more detailed information about specific allegations upon request from any of the following:

''(A) The chairperson or ranking member of the Committee on Homeland Security and Governmental Affairs of the Senate.

''(B) The chairperson or ranking member of the Committee on Oversight and Government Reform of the House of Representatives.

''(C) The chairperson or ranking member of the congressional committees of jurisdiction.

''(11) NO RIGHT OR BENEFIT.—This subsection is not intended to create any right or benefit, substantive or procedural, enforceable at law by a person against the United States, its agencies, its officers, or any person.''.

(b) EXISTING EXECUTIVE ORDERS.—Executive Order 12805, dated May 11, 1992, and Executive Order 12993, dated March 21, 1996, shall have no force or effect.

(c) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) INSPECTOR GENERAL ACT OF 1978.—The Inspector General Act of 1978 (5 U.S.C. App.) is amended—

(A) in sections 2(1), 4(b)(2), and 8G(a)(1)(A) by striking ''section 11(2)'' each place it appears and inserting ''section 12(2)''; and

(B) in section 8G(a), in the matter preceding paragraph (1), by striking ''section 11'' and inserting ''section 12''.

(2) SEPARATE APPROPRIATIONS ACCOUNT.—Section 1105(a) of title 31, United States Code, is amended by striking the first paragraph (33) and inserting the following:

''(33) a separate appropriation account for appropriations for the Council of the Inspectors General on Integrity and Efficiency, and, included in that account, a separate statement of the aggregate amount of appropriations requested for each academy maintained by the Council of the Inspectors General on Integrity and Efficiency.''.

SEC. 8. SUBMISSION OF BUDGET REQUESTS TO CONGRESS.

Section 6 of the Inspector General Act of 1978 (5 U.S.C. App.) is amended by adding at the end the following:

''(f)(1) For each fiscal year, an Inspector General shall transmit a budget estimate and request to the head of the agency, board, or commission to which the Inspector General reports. The budget request shall specify the aggregate amount of funds requested for such fiscal year for the operations of that Inspector General and shall specify the amount requested for all training requirements, including a certification from the Inspector General that the amount requested satisfies all training requirements for the Inspector General's office for that fiscal year, and any resources necessary to support the Council of the Inspectors General on Integrity and Efficiency. Resources necessary to support the Council of the Inspectors General on Integrity and Efficiency shall be specifically identified and justified in the budget request.

''(2) In transmitting a proposed budget to the President for approval, the head of each agency, board or commission shall include—

''(A) an aggregate request for the Inspector General;

''(B) amounts for Inspector General training;

''(C) amounts for support of the Council of the Inspectors General on Integrity and Efficiency; and

''(D) any comments of the affected Inspector General with respect to the proposal.

''(3) The President shall include in each budget of the United States Government submitted to Congress—

''(A) a separate statement of the budget estimate prepared in accordance with paragraph (1);

''(B) the amount requested by the President for each Inspector General;

''(C) training of Inspectors General;

''(D) support for the Council of the Inspectors General on Integrity and Efficiency; and

''(E) any comments of the affected Inspector General with respect to the proposal, including whether the budget request submitted by the head of the establishment would substantially inhibit the Inspector General from performing the duties of the office.''.

SEC. 9. SUBPOENA POWER.

Section 6(a)(4) of the Inspector General Act of 1978 (5 U.S.C. App.) is amended—

(1) by inserting ''in any medium (including electronically stored information, as well as any tangible thing)'' after ''other data''; and

(2) by striking ''subpena'' and inserting ''subpoena''.

SEC. 10. PROGRAM FRAUD CIVIL REMEDIES ACT.

Section 3801(a)(1) of title 31, United States Code, is amended—

(1) in subparagraph (C), by striking ''and'' after the semicolon;

(2) in subparagraph (D), by adding ''and'' after the semicolon; and

(3) by adding at the end the following:

''(E) a designated Federal entity (as such term is defined under section 8G(a)(2) of the Inspector General Act of 1978).''.

SEC. 11. LAW ENFORCEMENT AUTHORITY FOR DESIGNATED FEDERAL ENTITIES.

Section 6(e) of the Inspector General Act of 1978 (5 U.S.C. App.) is amended—

(1) in paragraph (1) by striking ''appointed under section 3''; and

(2) by adding at the end the following:

''(9) In this subsection the term 'Inspector General' means an Inspector General appointed under section 3 or an Inspector General appointed under section 8G.''.

SEC. 12. APPLICATION OF SEMIANNUAL REPORTING REQUIREMENTS WITH RESPECT TO INSPECTION REPORTS AND EVALUATION REPORTS.

Section 5 of the Inspector General Act of 1978 (5 U.S.C. App.) is amended—

(1) in each of subsections (a)(6), (a)(8), (a)(9), (b)(2), and (b)(3)—

(A) by inserting '', inspection reports, and evaluation reports'' after ''audit reports'' the first place it appears; and

(B) by striking ''audit'' the second place it appears; and

(2) in subsection (a)(10) by inserting '', inspection reports, and evaluation reports'' after ''audit reports''.

SEC. 13. INFORMATION ON WEBSITES OF OFFICES OF INSPECTORS GENERAL.

(a) DEFINITION.—In this section the term ''agency'' means a Federal agency as defined under section 11(5) of the Inspector General Act of 1978 (5 U.S.C. App.).

(b) DIRECT LINKS TO INSPECTORS GENERAL OFFICES.—

(1) IN GENERAL.—Each agency shall establish and maintain on the homepage of the website of that agency, a direct link to the website of the Office of the Inspector General of that agency.

(2) ACCESSIBILITY.—The direct link under paragraph (1) shall be obvious and facilitate accessibility to the website of the Office of the Inspector General.

(c) REQUIREMENTS FOR INSPECTORS GENERAL WEBSITES.—

(1) POSTING OF REPORTS AND AUDITS.—The Inspector General of each agency shall—

(A) in accordance with section 552a of title 5, United States Code (commonly referred to as the Privacy Act), not later than 3 working days after any report or audit (or portion of any report or audit), that is subject to release under section 552 of that title (commonly referred to as the Freedom of Information Act), is made publicly available, post that report or audit (or portion of that report or audit) on the website of the Office of the Inspector General; and

(B) ensure that any posted report or audit (or portion of that report or audit) described under subparagraph (A)—

(i) is easily accessible from a direct link on the homepage of the website of the Office of the Inspector General;

(ii) includes a summary of the findings of the Inspector General; and

(iii) is in a format that—

(I) is searchable and downloadable; and

(II) facilitates printing by individuals of the public accessing the website.

(2) REPORTING OF FRAUD, WASTE, AND ABUSE.—

(A) IN GENERAL.—The Inspector General of each agency shall establish and maintain a direct link on the homepage of the website of the Office of the Inspector General for individuals to report fraud, waste, and abuse. Individuals reporting fraud, waste, or abuse using the direct link established under this paragraph shall not be required to provide personally identifying information relating to that individual.

(B) ANONYMITY.—The Inspector General of each agency shall not disclose the identity of any individual making a report under this

paragraph without the consent of the individual unless the Inspector General determines that such a disclosure is unavoidable during the course of the investigation.

(d) IMPLEMENTATION.—Not later than 180 days after the date of enactment of this Act, the head of each agency and the Inspector General of each agency shall implement this section.

SEC. 14. INVESTIGATIONS OF DEPARTMENT OF JUSTICE PERSONNEL.

(a) AMENDMENT TO REQUIREMENT RELATING TO CERTAIN REFERRALS.—Section 8E(b) of the Inspector General Act of 1978 (5 U.S.C. App.) is amended by striking paragraph (3).

(b) TECHNICAL AND CONFORMING AMENDMENTS.—Section 8E of the Inspector General Act of 1978 (5 U.S.C. App.) is further amended—

(1) in subsection (b)—

(A) by striking ''and paragraph (3)'' in paragraph (2);

(B) by redesignating paragraph (4) as paragraph (3); and

(C) by redesignating paragraph (5) as paragraph (4) and in that paragraph by striking ''(4)'' and inserting ''(3)''; and

(2) in subsection (d), by striking '', except with respect to allegations described in subsection (b)(3),''.

SEC. 15. OTHER ADMINISTRATIVE AUTHORITIES.

(a) IN GENERAL.—Section 6(d) of the Inspector General Act of 1978 (5 U.S.C. App.) is amended to read as follows:

''(d)(1)(A) For purposes of applying the provisions of law identified in subparagraph (B)—

''(i) each Office of Inspector General shall be considered to be a separate agency; and

''(ii) the Inspector General who is the head of an office referred to in clause (i) shall, with respect to such office, have the functions, powers, and duties of an agency head or appointing authority under such provisions.

''(B) This paragraph applies with respect to the following provisions of title 5, United States Code:

''(i) Subchapter II of chapter 35.

''(ii) Sections 8335(b), 8336, 8344, 8414, 8468, and 8425(b).

''(iii) All provisions relating to the Senior Executive Service (as determined by the Office of Personnel Management), subject to paragraph (2).

''(2) For purposes of applying section 4507(b) of title 5, United States Code, paragraph (1)(A)(ii) shall be applied by substituting 'the Council of the Inspectors General on Integrity and Efficiency (established by section 11 of the Inspector General Act) shall' for 'the Inspector General who is the head of an office referred to in clause (i) shall, with respect to such office,'.''.

(b) AUTHORITY OF TREASURY INSPECTOR GENERAL FOR TAX ADMINISTRATION TO PROTECT INTERNAL REVENUE SERVICE EMPLOYEES.—Section 8D(k)(1)(C) of the Inspector General Act of 1978 (5 U.S.C. App.) is amended by striking ''and the providing of physical security''.

SEC. 16. GOVERNMENT ACCOUNTABILITY OFFICE REPORTS.

(a) IN GENERAL.—

(1) SUBMISSION.—Not later than 360 days after the date of enactment of this Act, the Government Accountability Office shall submit a report examining the adequacy of mechanisms to ensure accountability of the Offices of Inspector General to—

(A) the Committee on Homeland Security and Governmental Affairs of the Senate; and

(B) the Committee on Government Reform of the House of Representatives.

(2) CONTENTS.—The report submitted under paragraph (1) shall examine—

(A) the practices, policies, and procedures of the Integrity Committee of the Council of the Inspectors General on Integrity and Efficiency (and its predecessor committee); and

(B) the practices, policies, and procedures of the Offices of Inspector General with respect to complaints by and about employees of any Office of Inspector General that are not within the jurisdiction of the Integrity Committee.

(b) PAY OF INSPECTORS GENERAL.—Not later than 270 days after the date of enactment of this Act, the Government Accountability Office shall submit a report to the congressional committees of jurisdiction on the implementation of section 4.

Ms. COLLINS. Mr. President. I am pleased to join my colleagues, Senators MCCASKILL, LIEBERMAN, and COBURN, in introducing the Inspector General Reform Act of 2007, a bipartisan measure that will help detect and prevent fraud, waste, and abuse in government operations.

This legislation is an important companion to S. 680, the Accountability in Government Contracting Act of 2007, which the Senate passed last night by unanimous consent. Indeed, many of the reforms in this bill were included in S. 680 in February, when I first introduced that legislation along with Senators LIEBERMAN, COLEMAN, CARPER, and MCCASKILL. At our Committee's markup of S. 680, I recommended that the provisions governing Inspectors General be removed from that bill so that we could work together to improve the effectiveness of our Nation's Inspectors General in a separate legislative vehicle. The legislation we introduce today reflects that collaboration and continues our Committee's strong, bipartisan efforts to improve the effectiveness of Government.

Inspectors General are vital partners in Congress's effort to identify inefficient, ineffective, and improper Government programs. By leveraging the expertise and independence of Inspectors General and their staffs, Congress has been able to identify, and take action to stop, wasteful spending.

Examples of the IGs' invaluable work could be cited in depressingly large numbers, but let me note two efforts that I found particularly striking. In a 6-month period following the Hurricane Katrina disaster, the Department of Homeland Security's IG produced 29 reports that included alarming discoveries, including that 63 percent of the DHS purchase-card transactions made during the response had no documentation of goods or services actually being received. The DHS IG investigations helped produce 243 convictions for fraud or related offenses and aided in recovery of millions of taxpayer dollars.

As you will recall, the impressive work of the Special Inspector General for Iraq Reconstruction led to Congress's extending SIGIR's work in that country. The SIGIR reported, among other things, that more than $9 billion in Iraqi oil revenues disbursed in 2004 could not be accounted for, that hundreds of contracts had problems, and that many projects to restore Iraq's water and electric services would not be completed. The SIGIR's work is estimated to yield taxpayers $25 of benefit for every dollar of cost.

The investigations and reports of IGs throughout the government help Congress shape legislation and oversight activities—improving Government performance, providing important transparency into programs, and giving Americans better value for their tax dollar.

Unfortunately, the past year has produced troubling instances in which the independence of Inspectors General has been challenged within their respective departments. We have also heard allegations of misconduct by some Inspectors General. These alarming examples of pressure and impropriety cannot be tolerated, and the legislation we introduce today is an important first step in clarifying congressional expectations concerning the independence, funding, training, and accountability of the Federal Government's Inspectors General.

The Inspector General Reform Act of 2007 would improve the independence and effectiveness of Inspectors General and contribute to better relations among the IGs, the agencies they serve, and the Congress. These improvements will also help to insulate and protect Inspectors General from inappropriate efforts to hinder their investigations.

First and foremost, the legislation provides a clear manifestation of how Congress believes IGs should be chosen. It amends the Inspector General Act of 1978 to explicitly require appointments on the basis of ability and integrity, not political affiliation.

Additional enhancements included in the bill are a mandatory requirement to notify Congress 30 days before the removal of an IG, helping to prevent politically motivated attempts to terminate effective IGs.

A separate budget line for Inspectors General that includes their overall budget and training needs, helping to ensure that these offices are properly funded to perform their important mission.

A pay increase for IGs and a prohibition on cash bonuses or awards. Most IGs already refuse to accept bonuses to avoid an appearance of conflict, with the result that many deputies earn more than the IGs. This provision will improve an IG's influence and independence within an agency while avoiding the appearance of improper influence that bonuses can create.

Authorization for the Government-wide IG Council on Integrity and Efficiency that will ensure appropriate investigations of misconduct or malfeasance by IGs. And finally,

Clarification that the IGs' subpoena authority extends to electronic documents.

The oversight experience of the Homeland Security and Governmental Affairs Committee and many reviews by the Government Accountability Office have confirmed the vital importance of the Inspector General function

in our system of Government. By addressing identified shortcomings and further insulating IGs from inappropriate influence, the legislation we introduce today will make a critical function of Government even more effective. I urge my colleagues to support its prompt consideration and passage.

Mr. LIEBERMAN. Mr. President, I am proud to join my colleagues Senators MCCASKILL, COLLINS, and COBURN today in introducing the Inspector General Reform Act of 2007. This bipartisan bill reflects the broad Congressional support for the outstanding work of our Inspectors General and our desire to ensure that these important and unique government officials are given the tools and the accountability to perform at their very best.

It has been almost 30 years since Congress, as part of its post-Watergate reforms, passed the Inspectors General Act of 1978 that created an office of Inspector General in 12 major departments and agencies to hold those agencies accountable to the public interest and report back both to the agency heads and Congress on their findings. The law was amended in 1988 to add an Inspector General to almost all Executive agencies and departments.

The experiment has been a great success, hailed as a sort of consumer protector for the taxpayer deep within each agency. According to the President's Council on Integrity and Efficiency, last year alone IG audits resulted in $9.9 billion in potential savings and another $6.8 billion in savings when the results of civil and criminal investigations are added in.

Some of the IGs' work lands on the front page—exposing major shortcomings in government practices and official conduct. Most of it unfolds more quietly, but is just as critical in helping Federal agencies establish effective and efficient programs that make the most of the taxpayers' hard earned dollars.

Over the years, we have become aware of several instances where the independence of Inspectors General appears to be threatened. It is vital that Congress reiterate its strong support for the internal oversight IGs can provide and ensure they have the independence they need to carry out this vital, but often unpopular work.

Unfortunately, we are also aware of instances in which the watchdog needs watching—that is, situations where the Inspector General has behaved improperly or failed to provide vigorous oversight.

This legislation attempts to address both problems.

It includes an array of measures designed to strengthen the independence of the Inspectors General, such as requiring the administration to notify Congress 30 days before attempting to remove or transfer an IG. This would give us time to consider whether the administration was improperly seeking to displace an Inspector General for political reasons because the IG was, in effect, doing his or her job too well. It requires that all IGs be chosen on the basis of qualifications, without regard to political affiliation.

The legislation would codify and strengthen the existing IG councils, creating a unitary council that can provide greater support for IGs throughout the Government.

The bill would provide greater transparency of IG budget needs, including funds for training and council activities, to help ensure the IG offices have the resources they need for their investigations.

Most IGs would also receive a pay raise, to reflect the importance of the work they do and their proper stature within an agency. Currently, some IGs earn less than other senior officials in their agency and sometimes even less than some of their subordinates. However, we also prohibit bonuses for IGs, to remove a potential avenue for improper influence by the agency head.

Our bill also enhances IG accountability by strengthening the Integrity Committee that handles allegations against Inspectors General and their senior staff, and facilitating greater oversight of Integrity Committee by Congress.

The bill also ensures that the Inspector General of the Justice Department will have the authority, shared by other IGs, to investigate misconduct of any Departmental employee.

The House has already voted overwhelmingly in support of legislation addressing many of these same issues. It is time for the Senate to follow suit. I urge my colleagues to support this worthy and common sense piece of legislation.

By Mr. WARNER (for himself and Mr. WEBB):

S. 2331. A bill to exclude from gross income payments from the Hokie Spirit Memorial Fund to the victims of the tragic event, loss of life and limb, at Virginia Polytechnic Institute & State University; to the Committee on Finance.

Mr. WARNER. Mr. President, today I introduce legislation that will, I hope, help provide some measure of assistance to those family members who lost loved ones and to those who suffered wounds as a consequence of the horrific shootings that took place on April 16, 2007, on the campus of Virginia Tech. I am pleased to have my colleague from Virginia, Senator WEBB, as a cosponsor of this legislation.

In the aftermath of that tragic day, where 32 lives of promise were forever cut short, over 20,000 individuals and groups across the country demonstrated their support for the victims and their families with generous financial donations that totaled approximately $7.5 million. Virginia Tech established the Hokie Spirit Memorial Fund within the Virginia Tech Foundation to accept these charitable contributions. The Hokie Spirit Fund distribution plan offers families of the 32 individuals who lost their lives a choice of receiving proceeds from the Fund or dividing those proceeds between a cash payment and a scholarship in the victim's name. Injured victims are also eligible for Fund proceeds. On October 30, 2007, the University officially distributed these funds to the 79 families and individuals in accordance with the protocols established. While no amount of money can truly compensate for the loss of life or limb, these payments provide both the families of the deceased and the injured survivors with some financial resources to help, in some modest way.

Unfortunately, Federal law is not clear as to whether these payments are subject to Federal taxation. In my view, not only does precedent indicate that these types of payments should be free of Federal income tax, common sense concurs. Accordingly, the legislation that Senator WEBB and I introduce today makes it clear that any payments by Virginia Tech from the Hokie Spirit Fund in conjunction with the April 16, 2007, shooting at Virginia Tech should not be taxable for Federal purposes.

It is my hope that the Congress will expeditiously pass this important legislation. I ask for unanimous consent that the text of the bill be printed in the RECORD.

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

S. 2331

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

SECTION 1. EXCLUSION FROM INCOME FOR PAYMENTS FROM THE HOKIE SPIRIT MEMORIAL FUND.

For purposes of the Internal Revenue Code of 1986, gross income shall not include any amount received from the Virginia Polytechnic Institute & State University, out of amounts transferred from the Hokie Spirit Memorial Fund established by the Virginia Tech Foundation, an organization organized and operated as described in section 501(c)(3) of the Internal Revenue Code of 1986, as a payment in connection with the tragic event, loss of life and limb, on April 16, 2007, at such university.

By Mr. DORGAN (for himself, Mr. LOTT, Mr. OBAMA, Ms. SNOWE, Mr. KERRY, Mr. NELSON of Florida, Ms. CANTWELL, Mrs. FEINSTEIN, Mr. BIDEN, and Mrs. CLINTON):

S. 2332. A bill to promote transparency in the adoption of new media ownership rules by the Federal Communications Commission, and to establish an independent panel to make recommendations on how to increase the representation of women and minorities in broadcast media ownership; to the Committee on Commerce, Science, and Transportation.

Mr. DORGAN. Mr. President, today I am introducing the Media Ownership Act of 2007, along with Senators LOTT, OBAMA, SNOWE, KERRY, NELSON of Florida, CANTWELL, and FEINSTEIN. We seek with this bill to halt the Federal Communications Commission's, FCC, fast

march toward easing media ownership rules.

The FCC has taken a series of destructive actions in the past two decades that, I believe, have undermined the public interest. Now they appear prepared to do it again. The FCC is working to have a rewrite of media ownership rules completed just next month. Now this seems like a massive rush to me and a big mistake. How will the public interest be served by attempting to rush through a plan to relax ownership rules?

We don't need more concentration of ownership in radio and television stations and a green light for cross ownership between newspapers, radio and television stations. Further consolidation of media ownership at all is an affront to common sense. But even if we disagree with the rules the FCC issues, and even if we think the FCC should break up the big media companies rather than allow them to consolidate, the FCC must go through an honest and thorough process. They must study the questions that affect a decision of whether to adjust ownership limits. They have not done this. They have not put the final rules out for comment for a meaningful amount of time, they have not given the necessary consideration to the issue of localism, and they do not know enough about the impact of consolidation on localism or female and minority ownership.

The Media Ownership Act of 2007 ensures that the FCC allow enough time for comment on the actual rule changes. It requires that the FCC put out the final rules proposed by the Commission for 90 days of comment.

The bill also requires that the FCC complete a separate proceeding on the promotion of local programming and content by broadcasters and newspapers. In 2003, Chairman Powell set up a task force to promote localism in broadcasting and they began some hearings and took in comments. Chairman Martin has wrapped those comments into this ownership proceeding and is finishing the last localism hearing as part of this rushed schedule. The bill requires that they must publish a final rule in a separate proceeding and allow 90 days of comment. This must be completed prior to the vote on ownership.

The bill requires that the FCC establish an Independent Panel on Ownership by Women and Minorities. The FCC must collect and provide this panel with data on the specific gender and ethnic makeup of media owners. The panel shall issue recommendations and the FCC must act on these recommendations prior to a vote on media ownership.

The last time the FCC tried to do rush to consolidate media ownership, the United States Senate voted to block it. On September 16, 2003, the Senate voted 55–40 to support a ''resolution of disapproval'' of the FCC's previous decision to allow further concentration. If we have to do this again we will. A number of us have sent numerous letters to the FCC stating what needs to be done prior to a vote on media ownership limits and yet the Chairman is on track to move this proceeding to a vote. The FCC is clearly not listening and legislation is now necessary.

This is again a bipartisan effort to stop the FCC from destroying the local interests that we have always felt must be a part of broadcasting.

It is time to ensure that we first protect localism and diversity, which the FCC appears to have long forgotten. Only then can we really review the rules of media ownership in a thorough process to see if it is actually in the public interest to reverse any of those rules, or if greater public interest protections are necessary.

Mr. President, I ask unanimous consent that the text of the bill be placed in the RECORD.

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

S. 2332

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 ''Media Ownership Act of 2007''.

SEC. 2. MEDIA OWNERSHIP REFORMS.

Section 202 of the Telecommunications Act of 1996 (Public Law 104-104; 110 Stat. 110) is amended by—

(1) redesignating subsection (i) as subsection (l); and

(2) by inserting after subsection (h) the following:

''(i) NOTICE AND PUBLIC COMMENT REQUIREMENT.—

''(1) IN GENERAL.—In modifying, revising, or amending any of its regulations related to broadcast ownership, including any ownership rule or limitation set forth under sections 73.3555, 73.658(g), or 76.501 of its regulations (47 C.F.R. 73.3555, 73.658(g), 76.501), the Commission shall—

''(A) not later than 90 days prior to any vote by the Commission on the adoption of such modification, revision, or amendment publish such prospective modification, revision, or amendment in the Federal Register;

''(B) after such publication provide the public at least 60 days on which to comment on the prospective modification, revision, or amendment; and

''(C) upon the expiration of the 60-day comment period described under paragraph (2), have not less than 30 days in which to reply to any such comments.

''(2) EFFECTIVE DATE.—

''(A) IN GENERAL.—The notice and public requirements under paragraph (1) shall apply to any attempt by the Commission to modify, revise, or amend its regulations related to broadcast and newspaper ownership made after October 1, 2007.

''(B) FAILURE TO COMPLY.—If the Commission fails to comply with the notice and public requirements under paragraph (1) with respect to any modification, revision, or amendment to which such requirements apply, then such modification, revision, or amendment shall be vitiated and shall be of no force and effect.

''(j) PROMOTION OF LOCAL CONTENT IN MEDIA.—Before voting on any change in the broadcast and newspaper ownership rules, the Commission shall initiate, conduct, and complete a separate rulemaking proceeding to promote the broadcast of local programming and content by broadcasters, including radio and television broadcast stations, and newspapers. Before issuing a final rule, the Commission shall—

''(1) conduct a study to determine the overall impact of television station duopolies and newspaper-broadcast cross-ownership on the quantity and quality of local news, public affairs, local news media jobs, and local cultural programming at the market level;

''(2) publish a proposed final rule in the Federal Register not later than 90 days prior to any vote by the Commission on the adoption of the rule;

''(3) after such publication provide the public at least 60 days on which to comment on the prospective rule; and

''(4) upon the expiration of the 60-day comment period described in paragraph (3), have not less than 30 days in which to reply to any such comments.

''(k) INDEPENDENT PANEL ON WOMEN AND MINORITY OWNERSHIP OF BROADCAST MEDIA.—

''(1) ESTABLISHMENT.—The Commission shall establish and convene an independent panel on women and minority ownership of broadcast media to make recommendations to the Commission for specific Commission rules to increase the representation of women and minorities in the ownership of broadcast media.

''(2) CENSUS.—The Commission shall—

''(A) conduct a full and accurate census of the race and gender of individuals holding a controlling interest in broadcast station licensee;

''(B) provide the results of the census to the panel for its consideration before it makes any recommendation to the Commission; and

''(C) study the impact of media market concentration on the representation of women and minorities in the ownership of broadcast media based on the data in the census and report the results of that study to the panel for its consideration before it makes any recommendation to the Commission.

''(3) CONSIDERATION OF PANEL'S RECOMMENDATIONS.—The Commission shall act on the panel's recommendations before voting on any changes to its broadcast and newspaper ownership rules.''.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 371—EXPRESSING THE SENSE OF THE SENATE REGARDING THE ISSUANCE OF STATE DRIVER'S LICENSES AND OTHER GOVERNMENT-ISSUED PHOTO IDENTIFICATION TO ILLEGAL ALIENS

Mr. COLEMAN (for himself, Mrs. DOLE, Mr. MCCONNELL, Mr. LOTT, Mr. ISAKSON, Mr. DEMINT, Mr. MARTINEZ, Mr. ROBERTS, Mr. CHAMBLISS, Mr. VITTER, Mr. ALEXANDER, Mr. BURR, Mr. BOND, Mr. INHOFE, Mr. COBURN, Mr. GRAHAM, Mr. GREGG, Mr. ALLARD, and Mr. CORKER) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 371

Whereas some States issue State driver's licenses to aliens who are unlawfully present in the United States;

Whereas by providing official government-issued identification to individuals who are in the United States illegally, States and

other government entities reward those who show disrespect and disregard for Federal immigration laws;

Whereas the very act of entering the United States illegally shows disrespect for the laws of the United States and should not be rewarded in any way; and

Whereas issuing driver's licenses to undocumented individuals presents a national security risk and enables election fraud: Now, therefore, be it

Resolved, That it is the sense of the Senate that States should not issue driver's licenses or other photo identification to aliens who are unlawfully present in the United States.

Mr. COLEMAN. Mr. President, I thank the majority leader. A few months ago, I stood on the floor of the Senate to decry the practice of sanctuary cities. Municipalities across this country had identified a loophole in the law and banned the practice of police officers inquiring about a suspect's immigration status, allowing cities throughout this country to become sanctuaries for illegal immigrants.

I said that following the attacks of 9/11, we made a promise to the American people to make this country safer; that we identified, on all levels, cracks in our system; and that we found when the left arm doesn't know what the right arm is doing, the consequences can be disastrous.

I stand here today again to condemn another policy that flies in the face of post-9/11 thinking. The State of New York will join eight other States in issuing driver's licenses to illegal immigrants. New Mexico is setting up a program where they will doublecheck the illegal immigrant's identity with the Government of Mexico.

Polish language newspapers have advertised the ease by which licenses from the State of Maine can be acquired. Tennessee recently stopped the practice of issuing driver's licenses to illegal immigrants in the wake of evidence that illegal immigrants from other States were coming to Tennessee to get licenses.

To some, issuing licenses to illegal immigrants may seem harmless, if not commonsensical. If they are going to be driving on the streets, why not ensure that they know the rules of the road? The answer is licenses are much more than a permit to drive. The driver's license is a gateway document to a myriad of other services. Providing illegal immigrants with a driver's license affords them access to bank accounts, airline flights, and other resources that the 9/11 hijackers used to attack this Nation. Beyond national security, driver's licenses allow a person to enter a Federal building, vote in elections, and apply for Government benefits. There is also a considerable question of fraud—when we cannot verify the materials brought to the Department of Motor Vehicles to establish a person's identity, which is certainly the case when we are dealing with noncitizens in an illegal status, you open the doors to corruption, multiple identities, and criminality.

In the Senate, we have been grappling for several years with the issue of what to do with the 12 million or so undocumented people already in the United States. This Senator would like to find a solution that brings these folks out of the shadows. But the message we have received loudly and clearly from the American public is we cannot get the comprehensive immigration reform until we secure the borders and get serious about enforcing the rule of law when it comes to immigration.

Similar to sanctuary cities, the issuance of driver's licenses to illegal immigrants is a setback for those who want to see comprehensive immigration reform because it shows we are not serious about enforcing the law. It flies in the face of what the American people expect their Government to do, which is to control our borders, know who is in the country, and appropriately penalize those who have broken our laws.

I was at a coffee this morning with a columnist, Tom Friedman, a native Minnesotan, who addressed a group today. Immigration came up, and he said in passing that to deal with the illegal immigration, he is for a wall but one with a big gate. We need to remain a country that is open to foreign talent. We benefit from having those with Ph.D's and advanced degrees and what they bring in terms of job creation. We need to look at the issue of immigration and at changes in our laws to encourage the best and brightest to come and contribute to our economy. Until we reestablish the rule of law in immigration policy, we will not be able to get the political consensus that is needed to make any reforms, let alone deal with the 12 million illegals here already.

Sooner rather than later, America is going to have to ask itself: Do we want to take immigration and the State of our Nation's security seriously? To the States that issue licenses to illegal immigrants and the cities that have sanctuary city policies on the books, we must ask the question: Why are you undermining immigration laws at the expense of the safety and security of this country?

Today I am joined by several of my colleagues in introducing a sense-of-the-Senate resolution to make the official position of the Senate that States that issue government identification to illegal immigrants, issue driver's licenses, are disrespecting and disregarding Federal immigration laws. The measure also finds these actions present a national security risk and enables election fraud.

Our colleague, Iowa Congressman TOM LATHAM, has introduced identical legislation in the other body.

I am a former mayor. I am, frankly, deeply concerned, that if there is another attack on U.S. soil and we find that the terrorist was here illegally, if the terrorist was able to obtain a license, if the terrorist was able to move freely about the country, was able to open a bank account, all without the slightest bit of resistance, we are going to have to take a long look in the mirror and ask how we could let it happen. We shouldn't let it happen. It belies common sense to have a policy of States to issue driver's licenses to illegal immigrants. It makes it difficult to maintain the commitment we have to the American people, that we are committed to enforcing the rule of law. It makes it difficult for us who want to move forward on comprehensive immigration reform if we get to that point.

SENATE RESOLUTION 372—EXPRESSING THE SENSE OF THE SENATE ON THE DECLARATION OF A STATE OF EMERGENCY IN PAKISTAN

Mr. KERRY (for himself, Mr. BIDEN, Mr. OBAMA, Mr. CASEY, and Mr. DURBIN) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 372

Whereas a democratic, stable, and prosperous Pakistan that is a full and reliable partner in the struggle against Al Qaeda and the Taliban and a responsible steward of its nuclear weapons and technology is a vital national security interest of the United States and essential to combating international terrorism;

Whereas General Pervez Musharraf became the President of Pakistan following a military coup in October 1999;

Whereas President Musharraf dismissed Pakistan's Chief Justice of the Supreme Court, Iftikhar Chaudhry, on March 9, 2007, resulting in massive street protests and a unanimous decision by the Supreme Court of Pakistan to clear him of any wrongdoing and reinstate him on July 20, 2007;

Whereas the Government of Pakistan announced on September 18, 2007, that, if re-elected President of Pakistan, General Musharraf would resign his position as Chief of Army Staff of Pakistan by November 15, 2007;

Whereas the Prime Minister of Pakistan, Shaukat Aziz, called this announcement ''a clear reflection of President Gen. Pervez Musharraf's firm belief in democracy'';

Whereas an amendment to the Constitution of Pakistan allowing President Musharraf to hold the Government of Pakistan's top civilian and military leadership positions expires on December 31, 2007;

Whereas President Musharraf and former Prime Minister of Pakistan Benazir Bhutto conducted extensive negotiations on a power-sharing arrangement that would allow Ms. Bhutto to return to Pakistan and lead the Pakistan People's Party in parliamentary elections in Pakistan scheduled for January 15, 2008;

Whereas President Musharraf was elected to another term by the lame-duck parliament and provincial assemblies of Pakistan on October 6, 2007;

Whereas the Supreme Court of Pakistan has been reviewing the constitutionality of this election and intended to issue a ruling in November 2007;

Whereas former Prime Minister of Pakistan Nawaz Sharif returned to Pakistan on September 10, 2007, and was immediately forced to leave the country in contradiction of a ruling by the Supreme Court of Pakistan;

Whereas former Prime Minister Bhutto returned to Pakistan on October 18, 2007, after

more than 8 years in exile, and was immediately targeted in a suicide bombing by extremists in Karachi, Pakistan, that left at least 140 people dead and more than 500 injured;

Whereas on August 10, 2007, Secretary of State Condoleezza Rice personally requested that President Musharraf refrain from suspending the Constitution of Pakistan, and on November 1, 2007, again reiterated to President Musharraf United States opposition to any ''extra-constitutional'' measures;

Whereas over the past 6 years, the United States has provided approximately $10,000,000,000 in aid to Pakistan, of which about 60 percent was Coalition Support Funds designed to reimburse Pakistan for counter-terrorism efforts, 15 percent was for security assistance to the military, 15 percent was for debt relief and general budget support, and approximately 10 percent was for humanitarian assistance;

Whereas Admiral William Fallon, the senior United States military commander in the Middle East and Southwest Asia, advised General Musharraf on November 2, 2007 that emergency rule might place military aid at risk;

Whereas on November 3, 2007, General Musharraf, in his role as Chief of Army Staff of Pakistan, declared a state of emergency, suspended the Constitution of Pakistan, dismissed Chief Justice Chaudhry, and initiated a nation-wide crackdown on political opposition, the media, and the courts of Pakistan that resulted in the arrest of more than 1,000 political opponents;

Whereas the Administration declared that imposition of emergency rule was ''deeply disturbing,'' and Secretary of State Rice said that the United States would ''have to review the situation with aid'' in light of these developments;

Whereas on November 7, 2007, President George W. Bush spoke with President Musharraf and conveyed the message that ''we believe strongly in elections, and that you ought to have elections soon, and you need to take off your uniform''; and

Whereas on November 8, 2007, the Government of Pakistan announced that parliamentary elections in Pakistan would be held by February 15, 2008, and that President Musharraf would relinquish his position as Chief of Army Staff of Pakistan prior to being sworn in as President of Pakistan: Now, therefore, be it

Resolved, That it is the sense of the Senate—

(1) to condemn the decision by President Pervez Musharraf of Pakistan to declare a state of emergency in Pakistan, suspend the Constitution of Pakistan, dismiss the Supreme Court Justices refusing to take a loyalty oath, and initiate a nation-wide crackdown on political opposition, the media, and the courts in Pakistan;

(2) to call on President Musharraf to revoke the state of emergency, respect the rule of law and immediately release political detainees, restore the Constitution of Pakistan, restore freedom of the press and judicial independence in Pakistan, and reinstate all dismissed members of the Supreme Court of Pakistan;

(3) to call upon President Musharraf to honor his commitment to relinquish his position as Chief of Army Staff of Pakistan, allow free and fair parliamentary elections in Pakistan in accordance with the schedule mandated by the Constitution of Pakistan, establish an independent commission to guarantee that such elections are free and fair, and permit full and unfettered independent monitoring of such elections;

(4) that the Government of the United States should provide whatever assistance is necessary to facilitate such free and fair elections, including by supporting independent election monitoring organizations and efforts;

(5) to call upon the Government of Pakistan to conduct a full investigation into the attempted assassination of former Prime Minister of Pakistan Benazir Bhutto and provide her and other political leaders with all necessary security to ensure their personal safety; and

(6) that United States military assistance to Pakistan should be subjected to careful review, and that assistance for the purchase of certain weapons systems not directly related to the fight against Al Qaeda and the Taliban should be suspended if President Musharraf does not revoke the state of emergency and restore the Constitution of Pakistan, relinquish his position as Chief of Army Staff of Pakistan, and allow for free and fair elections to be held in Pakistan in accordance with the announced timeframe.

SENATE RESOLUTION 373—ENCOURAGING ALL EMPLOYERS TO TARGET VETERANS FOR RECRUITMENT AND TO PROVIDE PREFERENCE IN HIRING TO QUALIFIED VETERANS

Mr. SMITH. (for himself, Mr. AKAKA, and Mr. COLEMAN) submitted the following resolution; which was considered and agreed to:

S. RES. 373

Whereas the people of the United States have sincere appreciation and respect for the individuals who serve in the Armed Forces;

Whereas in order to recognize their sacrifices, including time out from their civilian careers while serving in the Armed Forces, Congress enacted the Veterans' Preference Act of 1944 to restore veterans to a more favorable competitive position for Federal Government employment;

Whereas, although veterans acquire skills and qualities during their military service that make them ideal candidates for employment, some veterans need assistance in readjusting to civilian life, including some young veterans who experience high unemployment rates;

Whereas it is acknowledged that the dignity, pride, and satisfaction of a civilian job are essential to the smooth and full reintegration into civilian life of those who have answered our Nation's call to arms; and

Whereas all citizens and all employers benefit from the service of members of the Armed Forces and thus bear some responsibility to assist in the reintegration of former servicemembers into civilian life: Now, therefore, be it

Resolved, That the Senate—

(1) urges all employers, private sector as well as State, county, and local government, to target veterans for recruitment and to afford qualified veterans hiring preference similar to the benefits provided by chapter 33 of title 5, United States Code, to preference eligibles, as defined in section 2108 of such title; and

SENATE RESOLUTION 374—EXPRESSING SUPPORT FOR DESIGNATION OF A NATIONAL VETERANS HISTORY PROJECT WEEK TO ENCOURAGE PUBLIC PARTICIPATION IN A NATIONWIDE PROJECT THAT COLLECTS AND PRESERVES THE STORIES OF THE MEN AND WOMEN WHO SERVED OUR NATION IN TIMES OF WAR AND CONFLICT

Ms. LANDRIEU submitted the following resolution; which was considered and agreed to:

S. RES. 374

Whereas the Veterans History Project was established by a unanimous vote of the United States Congress to collect and preserve the wartime stories of American veterans;

Whereas Congress charged the American Folklife Center at the Library of Congress to undertake the Veterans History Project and to engage the public in the creation of a collection of oral histories that would be a lasting tribute to individual veterans and an abundant resource for scholars;

Whereas there are 17,000,000 wartime veterans in America whose stories can educate people of all ages about important moments and events in the history of the United States and the world and provide instructive narratives that illuminate the meanings of ''service'', ''sacrifice'', ''citizenship'', and ''democracy'';

Whereas the Veterans History Project relies on a corps of volunteer interviewers, partner organizations, and an array of civic minded institutions nationwide who interview veterans according to the guidelines it provides;

Whereas increasing public participation in the Veterans History Project will increase the number of oral histories that can be collected and preserved and increase the number of veterans it so honors; and

Whereas ''National Veterans Awareness Week'' commendably preceded this resolution in the years 2005 and 2006: Now, therefore, be it

Resolved, That the Senate—

(1) recognizes ''National Veterans Awareness Week'';

(2) supports the designation of a ''National Veterans History Project Week'';

(3) calls on the people of the United States to interview at least one veteran in their families or communities according to guidelines provided by the Veterans History Project; and

(4) encourages local, State, and national organizations along with Federal, State, city and county governmental institutions to participate in support of the effort to document, preserve, and honor the service of American wartime veterans.

AMENDMENTS SUBMITTED AND PROPOSED

SA 3566. Mrs. BOXER submitted an amendment intended to be proposed to amendment SA 3500 proposed by Mr. HARKIN (for himself, Mr. CHAMBLISS, Mr. BAUCUS, and Mr. GRASSLEY) to the bill H.R. 2419, to provide for the continuation of agricultural programs through fiscal year 2012, and for other purposes; which was ordered to lie on the table.

SA 3567. Mrs. BOXER (for herself and Ms. COLLINS) submitted an amendment intended to be proposed to amendment SA 3500 proposed by Mr. HARKIN (for himself, Mr. CHAMBLISS, Mr. BAUCUS, and Mr. GRASSLEY)

to the bill H.R. 2419, supra; which was ordered to lie on the table.

SA 3568. Mr. STEVENS (for himself and Ms. MURKOWSKI) submitted an amendment intended to be proposed by him to the bill H.R. 2419, supra; which was ordered to lie on the table.

SA 3569. Mr. STEVENS (for himself, Ms. MURKOWSKI, Mr. LOTT, and Mr. SMITH) submitted an amendment intended to be proposed by him to the bill H.R. 2419, supra; which was ordered to lie on the table.

SA 3570. Mrs. FEINSTEIN (for herself and Mrs. HUTCHISON) submitted an amendment intended to be proposed by her to the bill S. 597, to extend the special postage stamp for breast cancer research for 2 years; which was ordered to lie on the table.

SA 3571. Mr. ALLARD submitted an amendment intended to be proposed by him to the bill H.R. 2419, to provide for the continuation of agricultural programs through fiscal year 2012, and for other purposes; which was ordered to lie on the table.

SA 3572. Mr. ALLARD submitted an amendment intended to be proposed by him to the bill H.R. 2419, supra; which was ordered to lie on the table.

SA 3573. Mr. ALLARD submitted an amendment intended to be proposed by him to the bill H.R. 2419, supra; which was ordered to lie on the table.

SA 3574. Mr. DURBIN submitted an amendment intended to be proposed by him to the bill H.R. 2419, supra; which was ordered to lie on the table.

SA 3575. Mr. COLEMAN (for himself, Mrs. DOLE, Mr. MCCONNELL, Mr. LOTT, Mr. ISAKSON, Mr. DEMINT, Mr. MARTINEZ, Mr. VITTER, Mr. ALEXANDER, Mr. BURR, Mr. BOND, Mr. INHOFE, Mr. GREGG, and Mr. CORKER) submitted an amendment intended to be proposed by him to the bill H.R. 2419, supra; which was ordered to lie on the table .

SA 3576. Mr. NELSON, of Nebraska (for himself and Mr. SALAZAR) submitted an amendment intended to be proposed by him to the bill H.R. 2419, supra; which was ordered to lie on the table.

SA 3577. Mr. SMITH (for himself and Mr. WYDEN) submitted an amendment intended to be proposed by him to the bill H.R. 2419, supra; which was ordered to lie on the table.

SA 3578. Mr. SMITH (for himself and Mr. WYDEN) submitted an amendment intended to be proposed by him to the bill H.R. 2419, supra; which was ordered to lie on the table.

SA 3579. Mr. SMITH (for himself and Mr. WYDEN) submitted an amendment intended to be proposed by him to the bill H.R. 2419, supra; which was ordered to lie on the table.

SA 3580. Mr. SMITH (for himself and Mr. WYDEN) submitted an amendment intended to be proposed by him to the bill H.R. 2419, supra; which was ordered to lie on the table.

SA 3581. Mr. SMITH (for himself and Mr. WYDEN) submitted an amendment intended to be proposed by him to the bill H.R. 2419, supra; which was ordered to lie on the table.

SA 3582. Mr. SMITH (for himself and Mr. WYDEN) submitted an amendment intended to be proposed by him to the bill H.R. 2419, supra; which was ordered to lie on the table.

SA 3583. Mr. SUNUNU (for himself and Mr. GREGG) submitted an amendment intended to be proposed by him to the bill H.R. 2419, supra; which was ordered to lie on the table.

SA 3584. Mr. COBURN submitted an amendment intended to be proposed by him to the bill H.R. 2419, supra; which was ordered to lie on the table.

SA 3585. Mr. COBURN submitted an amendment intended to be proposed by him to the bill H.R. 2419, supra; which was ordered to lie on the table.

SA 3586. Mr. FEINGOLD submitted an amendment intended to be proposed to amendment SA 3500 proposed by Mr. HARKIN (for himself, Mr. CHAMBLISS, Mr. BAUCUS, and Mr. GRASSLEY) to the bill H.R. 2419, supra; which was ordered to lie on the table.

SA 3587. Mr. FEINGOLD submitted an amendment intended to be proposed to amendment SA 3500 proposed by Mr. HARKIN (for himself, Mr. CHAMBLISS, Mr. BAUCUS, and Mr. GRASSLEY) to the bill H.R. 2419, supra; which was ordered to lie on the table.

SA 3588. Mr. FEINGOLD submitted an amendment intended to be proposed to amendment SA 3500 proposed by Mr. HARKIN (for himself, Mr. CHAMBLISS, Mr. BAUCUS, and Mr. GRASSLEY) to the bill H.R. 2419, supra; which was ordered to lie on the table.

SA 3589. Mr. FEINGOLD submitted an amendment intended to be proposed to amendment SA 3500 proposed by Mr. HARKIN (for himself, Mr. CHAMBLISS, Mr. BAUCUS, and Mr. GRASSLEY) to the bill H.R. 2419, supra; which was ordered to lie on the table.

SA 3590. Mr. BOND submitted an amendment intended to be proposed to amendment SA 3500 proposed by Mr. HARKIN (for himself, Mr. CHAMBLISS, Mr. BAUCUS, and Mr. GRASSLEY) to the bill H.R. 2419, supra; which was ordered to lie on the table.

SA 3591. Mr. BOND submitted an amendment intended to be proposed by him to the bill H.R. 2419, supra; which was ordered to lie on the table.

SA 3592. Mr. DOMENICI submitted an amendment intended to be proposed to amendment SA 3500 proposed by Mr. HARKIN (for himself, Mr. CHAMBLISS, Mr. BAUCUS, and Mr. GRASSLEY) to the bill H.R. 2419, supra; which was ordered to lie on the table.

SA 3593. Mr. DORGAN (for himself and Mr. BROWNBACK) submitted an amendment intended to be proposed by him to the bill H.R. 2419, supra; which was ordered to lie on the table.

SA 3594. Mr. DORGAN (for himself and Mr. BROWNBACK) submitted an amendment intended to be proposed by him to the bill H.R. 2419, supra; which was ordered to lie on the table.

SA 3595. Mr. SANDERS submitted an amendment intended to be proposed to amendment SA 3500 proposed by Mr. HARKIN (for himself, Mr. CHAMBLISS, Mr. BAUCUS, and Mr. GRASSLEY) to the bill H.R. 2419, supra; which was ordered to lie on the table.

SA 3596. Mr. SESSIONS submitted an amendment intended to be proposed to amendment SA 3500 proposed by Mr. HARKIN (for himself, Mr. CHAMBLISS, Mr. BAUCUS, and Mr. GRASSLEY) to the bill H.R. 2419, supra; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 3566. Mrs. BOXER submitted an amendment intended to be proposed to amendment SA 3500 proposed by Mr. HARKIN (for himself, Mr. CHAMBLISS, Mr. BAUCUS, and Mr. GRASSLEY) to the bill H.R. 2419, to provide for the continuation of agricultural programs through fiscal year 2012, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 1176, strike line 24 and all that follows through page 1177, line 2, and insert the following:

''(5) water resource needs, including water requirements for biorefineries;

''(6) education and outreach for agricultural producers transitioning to cellulosic feedstocks; and

''(7) such other infrastructure issues as the Secretary may determine.''.

On page 1177, strike lines 18 through 21 and insert the following:

''(5) the resource use and conservation characteristics of alternative approaches to infrastructure development;

''(6) the impact on the development of renewable energy when public and private utilities do not pay competitive rates for wind, solar, and biogas energy from agricultural sources; and

''(7) the environmental benefits of planting perennial grasses for the production of cellulosic ethanol.''.

SA 3567. Mrs. BOXER (for herself and Ms. COLLINS) submitted an amendment intended to be proposed to amendment SA 3500 proposed by Mr. HARKIN (for himself, Mr. CHAMBLISS, Mr. BAUCUS, and Mr. GRASSLEY) to the bill H.R. 2419, to provide for the continuation of agricultural programs through fiscal year 2012, and for other purposes; which was ordered to lie on the table; as follows:

On page 980, strike lines 12 and 13 and insert the following:

including fresh-cut produce;

''(7) methods of improving the supply and effectiveness of pollination for specialty crop production; and

''(8) efforts relating to optimizing the produc-

SA 3568. Mr. STEVENS (for himself and Ms. MURKOWSKI) submitted an amendment intended to be proposed by him to the bill H.R. 2419, to provide for the continuation of agricultural programs through fiscal year 2012, and for other purposes; which was ordered to lie on the table; as follows:

On page 1362, between lines 19 and 20, insert the following:

SEC. 110___. EXEMPTION FROM AQI USER FEES.

(a) IN GENERAL.—Notwithstanding any other provision of law (including regulations), the owner or operator of any commercial truck described in subsection (b) shall be exempt from the payment of any agricultural quarantine and inspection user fee.

(b) COMMERCIAL TRUCKS.—A commercial truck referred to in subsection (a) is a commercial truck that—

(1) originates in the State of Alaska and reenters the customs territory of the United States directly from Canada; or

(2) originates in the customs territory of the United States (other than the State of Alaska) and transits through the customs territory of Canada directly before entering the State of Alaska.

SA 3569. Mr. STEVENS (for himself, Ms. MURKOWSKI, Mr. LOTT, and Mr. SMITH) submitted an amendment intended to be proposed by him to the bill H.R. 2419, to provide for the continuation of agricultural programs through fiscal year 2012, and for other purposes; which was ordered to lie on the table; as follows:

On page 778, between lines 2 and 3, insert the following:

(c) COMMERCIAL FISHING.—Section 343 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1991) is amended—

(1) in subsection (a), by inserting ''and, in the case of subtitle B, commercial fishing'' before the period at the end of each of paragraphs (1) and (2); and

(2) by adding at the end the following:

''(c) DEFINITION OF FARM.—In subtitle B, the term 'farm' includes a commercial fishing enterprise.''.

SA 3570. Mrs. FEINSTEIN (for herself and Mrs. HUTCHISON) submitted an amendment intended to be proposed by

her to the bill S. 597, to extend the special postage stamp for breast cancer research for 2 years; which was ordered to lie on the table; as follows:

In section 1, in the section heading, strike ''**2-YEAR**'' AND INSERT ''**4-YEAR**''.

In section 1, strike ''2009'' and insert ''2011''.

Amend the title so as to read: ''To extend the special postage stamp for breast cancer research for 4 years.''

SA 3571. Mr. ALLARD submitted an amendment intended to be proposed by him to the bill H.R. 2419, to provide for the continuation of agricultural programs through fiscal year 2012, and for other purposes; which was ordered to lie on the table; as follows:

On page 1362, between lines 19 and 20, insert the following:

SEC. 110_____. USDA PROGRAM GOALS.

(a) IN GENERAL.—Not later than 120 days after the date of enactment of this Act, the Secretary shall submit to Congress a report that describes—

(1) each program of the Department of Agriculture that has received a Program Assessment Rating Tool (referred to in this section as ''PART'') score of ''results not demonstrated''; and

(2) for each such program, the steps being taken by the Secretary to develop acceptable and quantifiable performance goals to determine whether the program is performing as Congress intended.

(b) ANNUAL BUDGET.—

(1) IN GENERAL.—The Secretary shall include in the annual submission to Congress of the budget for the Department of Agriculture a report that identifies each program within the Department of Agriculture that has, as of the date of the report, a PART score of ''results not demonstrated'' or ''ineffective''.

(2) FUNDING.—If a program of the Department of Agriculture receives a PART score described in paragraph (1) for 2 or more consecutive years, the amount made available to the Secretary to carry out the program for each subsequent fiscal year shall be decreased by 10 percent until such time as the program receives a PART score of at least ''adequate''.

(c) REDUCTION OF DEBT.—For each fiscal year for which a program of the Department of Agriculture receives decreased funding under subsection (b)(2), an amount equal to the amount of funding withheld from the Department of Agriculture for that program shall be deposited in the account established under section 3113(d) of title 31, United States Code, for use in reducing the Federal debt.

SA 3572. Mr. ALLARD submitted an amendment intended to be proposed by him to the bill H.R. 2419, to provide for the continuation of agricultural programs through fiscal year 2012, and for other purposes; which was ordered to lie on the table; as follows:

AMENDMENT NO. 3572

On page 966, between lines 13 and 14, insert the following:

SEC. 7050. REGIONAL CENTERS OF EXCELLENCE IN FOOD SYSTEMS VETERINARY MEDICINE.

Subtitle K of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3310 et seq.) (as amended by section 7049) is amended by adding at the end the following:

''SEC. 1473S. REGIONAL CENTERS OF EXCELLENCE IN FOOD SYSTEMS VETERINARY MEDICINE.

''(a) DEFINITION OF ELIGIBLE SCHOOL OF VETERINARY MEDICINE.—In this section, the term 'eligible school of veterinary medicine' means a school of veterinary medicine that is—

''(1) a public or other nonprofit entity; and

''(2) accredited by an entity that is approved for such purpose by the Department of Education.

''(b) GRANT PROGRAM.—The Secretary shall make grants to eligible schools of veterinary medicine to assist the eligible schools of veterinary medicine in supporting centers of emphasis in food systems veterinary medicine.

''(c) APPLICATION PROCESS.—

''(1) APPLICATION REQUIREMENT.—To be eligible to receive a grant from the Secretary under subsection (b), an eligible school of veterinary medicine shall submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require.

''(2) CONSIDERATION OF APPLICATIONS.—The Secretary shall establish procedures to ensure that—

''(A) each application submitted under paragraph (1) is rigorously reviewed; and

''(B) grants are competitively awarded based on—

''(i) the ability of the eligible school of veterinary medicine to provide a comprehensive educational experience for students with particular emphasis on the species of food animal for which the eligible school of veterinary medicine is applying that is used for food production (including food animal veterinary medicine, food supply bioterrorism prevention and surveillance, food-safety, and the improvement of the quality of the environment);

''(ii) the ability of the eligible school of veterinary medicine to increase capacity with respect to research on the species of food animal for which the eligible school of veterinary medicine is applying that is used for food production; and

''(iii) any other consideration that the Secretary determines to be appropriate.

''(3) PREFERENCE FOR CONSORTIUM.—In making grants under subsection (b), the Secretary shall give preference to eligible schools of veterinary medicine that participate in interinstitutional agreements that—

''(A) cover issues relating to residency, tuition, or fees; and

''(B) consist of more than 1 other—

''(i) school of veterinary medicine;

''(ii) school of public health;

''(iii) school of agriculture; or

''(iv) appropriate entity that carries out education and research activities with respect to food production systems, as determined by the Secretary.

''(d) REQUIRED USE OF FUNDS.—The Secretary may not make a grant to an eligible school of veterinary medicine under subsection (b) unless the eligible school of veterinary medicine agrees to use the grant funds—

''(1) to develop a competitive student applicant pool through linkages with other appropriate schools of veterinary medicine, as determined by the Secretary;

''(2) to improve the capacity of the eligible school of veterinary medicine—

''(A) to train, recruit, and retain faculty;

''(B) to pay such stipends and fellowships as the Secretary determines to be appropriate in areas of research relating to—

''(i) food animal medicine; and

''(ii) food-safety and defense; and

''(C) to enhance the quality of the environment;

''(3) to carry out activities to improve the information resources, curriculum, and clinical education of students of the eligible school of veterinary medicine with respect to—

''(A) food animal veterinary medicine; and

''(B) food-safety;

''(4) to facilitate faculty and student research on health issues that—

''(A) affect—

''(i) food-producing animals; and

''(ii) food-safety; and

''(B) enhance the environment;

''(5) to provide stipends for students to offset costs relating to travel, tuition, and other expenses associated with attending the eligible school of veterinary medicine; and

''(6) for any other purpose that the Secretary determines to be appropriate.

''(e) PERIOD OF GRANTS.—

''(1) IN GENERAL.—Subject to paragraph (2), an eligible school of veterinary medicine that receives funds through a grant under subsection (b) shall receive funds under the grant for not more than 5 years after the date on which the grant was first provided.

''(2) CONDITIONS RELATING TO GRANT FUNDS.—Funds provided to an eligible school of veterinary medicine through a grant under subsection (b) shall be subject to—

''(A) the annual approval of the Secretary; and

''(B) the availability of appropriations.

''(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section for each of fiscal years 2008 through 2012.''.

SA 3573. Mr. ALLARD submitted an amendment intended to be proposed by him to the bill H.R. 2419, to provide for the continuation of agricultural programs through fiscal year 2012, and for other purposes; which was ordered to lie on the table; as follows:

Section 20 of the Cooperative Forestry Assistance Act of 1978 (as added by section 8004) is amended by striking subsection (a) and inserting the following:

''(a) ESTABLISHMENT.—The Secretary shall establish a comprehensive statewide forest planning program under which the Secretary shall provide financial and technical assistance to States for use in the development and implementation of—

''(1) statewide forest resource assessments and plans; and

''(2) community wildfire protection plans.

SA 3574. Mr. DURBIN submitted an amendment intended to be proposed by him to the bill H.R. 2419, to provide for the continuation of agricultural programs through fiscal year 2012, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place in title XI, insert the following:

SEC. _____. FOOD SAFETY IMPROVEMENT.

(a) REPORTABLE FOOD REGISTRIES.—

(1) FEDERAL MEAT INSPECTION.—The Federal Meat Inspection Act is amended—

(A) by redesignating section 411 (21 U.S.C. 680) as section 412; and

(B) by inserting after section 410 (21 U.S.C. 679a) the following:

''SEC. 411. REPORTABLE FOOD EVENT.

''(a) DEFINITIONS.—In this section:

''(1) REPORTABLE FOOD.—The term 'reportable food' means meat or a meat food product under this Act for which there is a reasonable probability that the use of, or exposure to, the meat or meat food product will cause serious adverse health consequences or death to humans or animals.

''(2) REGISTRY.—The term 'Registry' means the registry established under subsection (b).

''(3) RESPONSIBLE PARTY.—The term 'responsible party', with respect to a reportable food, means an operator of an establishment subject to inspection under this Act at which the reportable food is manufactured, processed, packed, or held.

''(b) ESTABLISHMENT.—

''(1) IN GENERAL.—Not later than 1 year after the date of enactment of the Food and Energy Security Act of 2007, the Secretary shall establish within the Department of Agriculture a Reportable Meat Registry to which information concerning reportable food may be submitted via an electronic portal, from—

''(A) employees of the Food Safety and Inspection Service;

''(B) Federal, State, and local public health officials; and

''(C) responsible parties.

''(2) REVIEW BY SECRETARY.—The Secretary shall promptly review and assess the information submitted under paragraph (1) for the purposes of—

''(A) identifying reportable food;

''(B) submitting entries to the Registry;

''(C) taking actions under subsection (c); and

''(D) exercising other food safety authority of the Secretary to protect the health and safety of humans and animals.

''(c) ISSUANCE OF AN ALERT BY THE SECRETARY.—

''(1) IN GENERAL.—The Secretary shall issue, or cause to be issued, an alert or a notification with respect to a reportable food using information from the Registry as the Secretary considers necessary to protect the health and safety of humans and animals.

''(2) EFFECT.—Paragraph (1) shall not affect the authority of the Secretary to issue an alert or a notification under any other provision of law.

''(d) REPORTING AND NOTIFICATION.—

''(1) IN GENERAL.—Except as provided in paragraph (2), as soon as practicable, but in no case later than 24 hours after a responsible party determines that meat or meat food product is a reportable food, the responsible party shall—

''(A) submit a report to the Secretary through the Registry that includes information described in subsection (e) (other than the information described in paragraphs (7), (8), and (9) of that subsection); and

''(B) investigate the cause of the event that caused the meat or meat food product to be a reportable food, if the reportable food originated with the responsible party.

''(2) NO REPORT REQUIRED.—A responsible party shall not be required to submit a report under paragraph (1) if—

''(A) the adulteration or misbranding originated with the responsible party;

''(B) the responsible party detected the adulteration or misbranding prior to any transfer to another person of the meat or meat food product; and

''(C) the responsible party—

''(i) corrected the adulteration or misbranding; or

''(ii) destroyed or caused the destruction of the meat or meat food product.

''(3) REPORT NUMBER.—The Secretary shall ensure that, upon submission of a report under paragraph (1), a unique number is issued through the Registry to the person submitting the report, by which the Secretary is able—

''(A) to link reports about the reportable food submitted and amended under this subsection; and

''(B) identify the supply chain for the reportable food.

''(4) RESPONSE TO REPORT SUBMITTED BY A RESPONSIBLE PARTY.—After consultation with the responsible party that submitted a report under paragraph (1), the Secretary may require the responsible party to perform, as soon as practicable, but in no case later than a time specified by the Secretary, 1 or more of the following, as determined by the Secretary:

''(A) Amend the report submitted by the responsible party under paragraph (1) to include the information described in subsection (e)(8).

''(B) Provide a notification—

''(i) to the immediate previous source of the reportable food;

''(ii) to the immediate subsequent recipient of the reportable food; and

''(iii) that includes—

''(I) the information described in subsection (e) that the Secretary considers necessary;

''(II) the actions described under paragraph (5) that the recipient of the notification shall perform, as required by the Secretary; and

''(III) any other information that the Secretary may require.

''(5) SUBSEQUENT REPORTS AND NOTIFICATIONS.—Except as provided in paragraph (6), the Secretary may require a responsible party to perform, as soon as practicable, but in no case later than a time specified by the Secretary, after the responsible party receives a notification under subparagraph (C) or paragraph (4)(B), 1 or more of the following:

''(A) Submit a report to the Secretary through the Registry established under subsection (b) that includes the information described in subsection (e) and other information that the Secretary considers necessary.

''(B) Investigate the cause of the adulteration or misbranding if the adulteration or misbranding of the reportable food may have originated with the responsible party.

''(C) Provide a notification—

''(i) to the immediate previous source of the reportable food;

''(ii) to the immediate subsequent recipient of the reportable food; and

''(iii) that includes—

''(I) the information described in subsection (e) that the Secretary considers necessary;

''(II) the actions described under this paragraph that the recipient of the notification shall perform, as required by the Secretary; and

''(III) any other information that the Secretary may require.

''(6) AMENDED REPORT.—If a responsible party receives a notification under paragraph (4)(B) or paragraph (5)(C) with respect to a reportable food after the responsible party has submitted a report to the Secretary under paragraph (1) with respect to the reportable food, the responsible party—

''(A) shall not be required to submit an additional report or make a notification under paragraph (5); and

''(B) the responsible party shall amend the report submitted by the responsible party under paragraph (1) to include the information described in paragraph (7), and, with respect to both the notification and the report, paragraph (10) of subsection (e).

''(e) INFORMATION.—The information described in this subsection is the following:

''(1) The date on which the meat or meat food product was determined to be a reportable food.

''(2) A description of the reportable food, including the quantity of the reportable food.

''(3) The extent and nature of the adulteration or misbranding.

''(4) If the adulteration or misbranding of the reportable food may have originated with the responsible party, the results of the investigation required under paragraph (1)(B) or (5)(B) of subsection (d), as applicable, and when known.

''(5) The disposition of the reportable food, if known.

''(6) Product information typically found on packaging including product codes, use-by dates, and the names of manufacturers, packers, or distributors sufficient to identify the reportable food.

''(7) Contact information for the responsible party.

''(8) The contact information for parties directly linked in the supply chain and notified under paragraph (4)(B) or (5)(C) of subsection (d), as applicable.

''(9) The information required by the Secretary to be included in a notification provided by the responsible party involved under paragraph (4)(B) or (5)(C) of subsection (d) or required in a report under subsection (d)(5)(A).

''(10) The unique number described in subsection (d)(3).

''(f) COORDINATION OF FEDERAL, STATE, AND LOCAL EFFORTS.—

''(1) FOOD AND DRUG ADMINISTRATION.—In carrying out this section, the Secretary shall—

''(A) share information and coordinate regulatory efforts with the Commissioner of Food and Drugs; and

''(B) if the Secretary receives a report submitted about a food within the jurisdiction of the Commissioner, promptly provide the report to the Commissioner.

''(2) STATES AND LOCALITIES.—In carrying out this section, the Secretary shall work with the State and local public health officials to share information that is not confidential commercial or financial information protected under section 552(b)(4) of title 5, United States Code, and coordinate regulatory efforts, in order to—

''(A) help to ensure coverage of the safety of the food supply chain, including those establishments regulated by the States and localities that are not regulated under this Act; and

''(B) reduce duplicative regulatory efforts.

''(g) MAINTENANCE AND INSPECTION OF RECORDS.—

''(1) IN GENERAL.—The responsible party shall maintain records related to each report received, notification made, and report submitted to the Secretary under this section for at least 2 years.

''(2) INSPECTION.—A responsible party shall, at the request of the Secretary, permit inspection of records maintained under paragraph (1).

''(h) REQUEST FOR INFORMATION.—Section 552 of title 5, United States Code, shall apply to any request for information regarding a record in the Registry.

''(i) SAFETY REPORT.—A report or notification under subsection (d) may be accompanied by a statement, which shall be part of any report released for public disclosure, that denies that the report or the notification constitutes an admission that the product involved caused or contributed to a death, serious injury, or serious illness.

''(j) ADMISSION.—A report or notification under this section shall not be considered an admission that the reportable food involved is adulterated, misbranded, or caused or contributed to a death, serious injury, or serious illness.

''(k) HOMELAND SECURITY NOTIFICATION.—If, after receiving a report under subsection (d), the Secretary believes the reportable food may have been deliberately adulterated or misbranded, the Secretary shall—

''(1) immediately notify the Secretary of Homeland Security; and

''(2) make relevant information from the Registry available to the Secretary of Homeland Security.

''(l) VIOLATIONS.—A responsible party that fails to comply with any requirement of this

section shall be subject to an appropriate penalty under section 406.''.

(2) POULTRY PRODUCTS INSPECTION ACT.—The Poultry Products Inspection Act is amended by inserting after section 10 (21 U.S.C. 459) the following:

''SEC. 10A. REPORTABLE FOOD EVENT.

''(a) DEFINITIONS.—In this section:

''(1) REPORTABLE FOOD.—The term 'reportable food' means poultry or a poultry product under this Act for which there is a reasonable probability that the use of, or exposure to, the poultry or poultry product will cause serious adverse health consequences or death to humans or animals.

''(2) REGISTRY.—The term 'Registry' means the registry established under subsection (b).

''(3) RESPONSIBLE PARTY.—The term 'responsible party', with respect to a reportable food, means an operator of an official establishment.

''(b) ESTABLISHMENT.—

''(1) IN GENERAL.—Not later than 1 year after the date of enactment of the Food and Energy Security Act of 2007, the Secretary shall establish within the Department of Agriculture a Reportable Poultry Registry to which information concerning reportable food may be submitted via an electronic portal, from—

''(A) employees of the Food Safety and Inspection Service;

''(B) Federal, State, and local public health officials; and

''(C) responsible parties.

''(2) REVIEW BY SECRETARY.—The Secretary shall promptly review and assess the information submitted under paragraph (1) for the purposes of—

''(A) identifying reportable food;

''(B) submitting entries to the Registry;

''(C) taking actions under subsection (c); and

''(D) exercising other food safety authority of the Secretary to protect the health and safety of humans and animals.

''(c) ISSUANCE OF AN ALERT BY THE SECRETARY.—

''(1) IN GENERAL.—The Secretary shall issue, or cause to be issued, an alert or a notification with respect to a reportable food using information from the Registry as the Secretary considers necessary to protect the health and safety of humans and animals.

''(2) EFFECT.—Paragraph (1) shall not affect the authority of the Secretary to issue an alert or a notification under any other provision of law.

''(d) REPORTING AND NOTIFICATION.—

''(1) IN GENERAL.—Except as provided in paragraph (2), as soon as practicable, but in no case later than 24 hours after a responsible party determines that poultry or poultry product is a reportable food, the responsible party shall—

''(A) submit a report to the Secretary through the Registry that includes information described in subsection (e) (other than the information described in paragraphs (7), (8), and (9) of that subsection); and

''(B) investigate the cause of the event that caused the poultry or poultry product to be a reportable food, if the reportable food originated with the responsible party.

''(2) NO REPORT REQUIRED.—A responsible party shall not be required to submit a report under paragraph (1) if—

''(A) the adulteration or misbranding originated with the responsible party;

''(B) the responsible party detected the adulteration or misbranding prior to any transfer to another person of the poultry or poultry product; and

''(C) the responsible party—

''(i) corrected the adulteration or misbranding; or

''(ii) destroyed or caused the destruction of the poultry or poultry product.

''(3) REPORT NUMBER.—The Secretary shall ensure that, upon submission of a report under paragraph (1), a unique number is issued through the Registry to the person submitting the report, by which the Secretary is able—

''(A) to link reports about the reportable food submitted and amended under this subsection; and

''(B) identify the supply chain for the reportable food.

''(4) RESPONSE TO REPORT SUBMITTED BY A RESPONSIBLE PARTY.—After consultation with the responsible party that submitted a report under paragraph (1), the Secretary may require the responsible party to perform, as soon as practicable, but in no case later than a time specified by the Secretary, 1 or more of the following, as determined by the Secretary:

''(A) Amend the report submitted by the responsible party under paragraph (1) to include the information described in subsection (e)(8).

''(B) Provide a notification—

''(i) to the immediate previous source of the reportable food;

''(ii) to the immediate subsequent recipient of the reportable food; and

''(iii) that includes—

''(I) the information described in subsection (e) that the Secretary considers necessary;

''(II) the actions described under paragraph (5) that the recipient of the notification shall perform, as required by the Secretary; and

''(III) any other information that the Secretary may require.

''(5) SUBSEQUENT REPORTS AND NOTIFICATIONS.—Except as provided in paragraph (6), the Secretary may require a responsible party to perform, as soon as practicable, but in no case later than a time specified by the Secretary, after the responsible party receives a notification under subparagraph (C) or paragraph (4)(B), 1 or more of the following:

''(A) Submit a report to the Secretary through the Registry established under subsection (b) that includes the information described in subsection (e) and other information that the Secretary considers necessary.

''(B) Investigate the cause of the adulteration or misbranding if the adulteration or misbranding of the reportable food may have originated with the responsible party.

''(C) Provide a notification—

''(i) to the immediate previous source of the reportable food;

''(ii) to the immediate subsequent recipient of the reportable food; and

''(iii) that includes—

''(I) the information described in subsection (e) that the Secretary considers necessary;

''(II) the actions described under this paragraph that the recipient of the notification shall perform, as required by the Secretary; and

''(III) any other information that the Secretary may require.

''(6) AMENDED REPORT.—If a responsible party receives a notification under paragraph (4)(B) or paragraph (5)(C) with respect to a reportable food after the responsible party has submitted a report to the Secretary under paragraph (1) with respect to the reportable food, the responsible party—

''(A) shall not be required to submit an additional report or make a notification under paragraph (5); and

''(B) the responsible party shall amend the report submitted by the responsible party under paragraph (1) to include the information described in paragraph (7), and, with respect to both the notification and the report, paragraph (10) of subsection (e).

''(e) INFORMATION.—The information described in this subsection is the following:

''(1) The date on which the poultry or poultry product was determined to be a reportable food.

''(2) A description of the reportable food, including the quantity of the reportable food.

''(3) The extent and nature of the adulteration or misbranding.

''(4) If the adulteration or misbranding of the reportable food may have originated with the responsible party, the results of the investigation required under paragraph (1)(B) or (5)(B) of subsection (d), as applicable, and when known.

''(5) The disposition of the reportable food, if known.

''(6) Product information typically found on packaging including product codes, use-by dates, and the names of manufacturers, packers, or distributors sufficient to identify the reportable food.

''(7) Contact information for the responsible party.

''(8) The contact information for parties directly linked in the supply chain and notified under paragraph (4)(B) or (5)(C) of subsection (d), as applicable.

''(9) The information required by the Secretary to be included in a notification provided by the responsible party involved under paragraph (4)(B) or (5)(C) of subsection (d) or required in a report under subsection (d)(5)(A).

''(10) The unique number described in subsection (d)(3).

''(f) COORDINATION OF FEDERAL, STATE, AND LOCAL EFFORTS.—

''(1) FOOD AND DRUG ADMINISTRATION.—In carrying out this section, the Secretary shall—

''(A) share information and coordinate regulatory efforts with the Commissioner of Food and Drugs; and

''(B) if the Secretary receives a report submitted about a food within the jurisdiction of the Commissioner, promptly provide the report to the Commissioner.

''(2) STATES AND LOCALITIES.—In carrying out this section, the Secretary shall work with the State and local public health officials to share information that is not confidential commercial or financial information protected under section 552(b)(4) of title 5, United States Code, and coordinate regulatory efforts, in order to—

''(A) help to ensure coverage of the safety of the food supply chain, including those establishments regulated by the States and localities that are not regulated under this Act; and

''(B) reduce duplicative regulatory efforts.

''(g) MAINTENANCE AND INSPECTION OF RECORDS.—

''(1) IN GENERAL.—The responsible party shall maintain records related to each report received, notification made, and report submitted to the Secretary under this section for at least 2 years.

''(2) INSPECTION.—A responsible party shall, at the request of the Secretary, permit inspection of records maintained under paragraph (1).

''(h) REQUEST FOR INFORMATION.—Section 552 of title 5, United States Code, shall apply to any request for information regarding a record in the Registry.

''(i) SAFETY REPORT.—A report or notification under subsection (d) may be accompanied by a statement, which shall be part of any report released for public disclosure, that denies that the report or the notification constitutes an admission that the product involved caused or contributed to a death, serious injury, or serious illness.

''(j) ADMISSION.—A report or notification under this section shall not be considered an

admission that the reportable food involved is adulterated, misbranded, or caused or contributed to a death, serious injury, or serious illness.

''(k) HOMELAND SECURITY NOTIFICATION.—If, after receiving a report under subsection (d), the Secretary believes the reportable food may have been deliberately adulterated or misbranded, the Secretary shall—

''(1) immediately notify the Secretary of Homeland Security; and

''(2) make relevant information from the Registry available to the Secretary of Homeland Security.

''(l) PENALTIES.—A responsible party that fails to comply with any requirement of this section shall be subject to an appropriate penalty under section 12.''.

(3) CONFORMING AMENDMENT.—Section 12(a) of the Poultry Products Inspection Act (21 U.S.C. 461(a)) is amended by inserting ''10A,'' after ''10,''.

(4) EFFECTIVE DATE.—The amendments made by the subsection take effect on the date that is 1 year after the date of enactment of this Act.

(5) GUIDANCE.—Not later than 270 days after the date of enactment of this Act, the Secretary shall issue a guidance to industry relating to—

(A) the submission of reports to the registries established under section 411 of the Federal Meat Inspection Act (as amended by paragraph (1)) and section 10A of the Poultry Products Inspection Act (as amended by paragraph (2)); and

(B) the provision of notification to other persons in the supply chain of reportable food under those sections.

(6) EFFECT.—Nothing in this subsection, or an amendment made by this subsection, alters the jurisdiction between the Secretary and the Secretary of Health and Human Services, under applicable law (including regulations).

(b) SUPPLEMENTAL PLANS AND REASSESSMENTS.—The Secretary shall require that each establishment required by the Secretary to have a hazard analysis and critical control point plan in accordance with the final rule of the Secretary (61 Fed. Reg. 38806 (July 25, 1996)) shall submit to the Secretary, in writing—

(1) at a minimum, a recall plan described in Directive 8080.1, Rev. 4 (May 24, 2004) of the Food Safety and Inspection Service (or a successor directive); and

(2) for beef products, an E. coli reassessment described in the supplementary information relating to E. coli O157: H7 Contamination of Beef Products (67 Fed. Reg. 62325 (October 7, 2002); part 417 of title 9, Code of Federal Regulations).

(c) SANITARY TRANSPORTATION OF FOOD.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary of Health and Human Services shall promulgate regulations described in section 416(b) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 350e(b)).

(2) MEMORANDUM OF UNDERSTANDING.—Not later than 180 days after the date of enactment of this Act, the Secretary, the Secretary of Health and Human Services, and the Secretary of Transportation shall enter into a memorandum of understanding to ensure that the Secretaries work together effectively to ensure the safety and security of the food supply of the United States, particularly in relation to distribution channels involving transportation (as described in the withdrawal of notices of proposed rulemaking (70 Fed. Reg. 76228 (December 23, 2005))).

SA 3575. Mr. COLEMAN (for himself, Mrs. DOLE, Mr. MCCONNELL, Mr. LOTT, Mr. ISAKSON, Mr. DEMINT, Mr. MARTINEZ, Mr. VITTER, Mr. ALEXANDER, Mr. BURR, Mr. BOND, Mr. INHOFE, Mr. GREGG, and Mr. CORKER) submitted an amendment intended to be proposed by him to the bill H.R. 2419, to provide for the continuation of agricultural programs through fiscal year 2012, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. SENSE OF THE SENATE.

It is the sense of the Senate that—

(1) some States issue State driver's licenses to aliens who are unlawfully present in the United States;

(2) providing official government-issued identification to individuals who are in the United States illegally rewards those who show disrespect and disregard for Federal immigration laws;

(3) the very act of entering the United States illegally shows disrespect for the laws of the United States and should not be rewarded in any way;

(4) issuing driver's licenses to undocumented individuals presents a national security risk and enables election fraud; and

(5) States should not issue driver's licenses or other photo identification to aliens who are unlawfully present in the United States.

SA 3576. Mr. NELSON of Nebraska (for himself and Mr. SALAZAR) submitted an amendment intended to be proposed by him to the bill H.R. 2419, to provide for the continuation of agricultural programs through fiscal year 2012, and for other purposes; which was ordered to lie on the table; as follows:

In section 1101, strike subsection (c) and insert the following:

(c) PERMANENT REDUCTION IN BASE ACRES.—

(1) REDUCTION AT OPTION OF OWNER.—

(A) IN GENERAL.—The owner of a farm may reduce, at any time, the base acres for any covered commodity for the farm.

(B) EFFECT OF REDUCTION.—A reduction under subparagraph (A) shall be permanent and made in a manner prescribed by the Secretary.

(2) REQUIRED ACTION BY SECRETARY.—

(A) IN GENERAL.—The Secretary shall suspend all direct, counter-cyclical, and average crop revenue payments on base acres for covered commodities for land that is no longer a farming operation or used in conjunction with a farming operation, as determined by the Secretary.

(B) REDUCTION.—The Secretary shall permanently reduce base acres for covered commodities in a manner prescribed by the Secretary, for land that—

(i) has been developed for commercial or industrial use; or

(ii) has been subdivided and developed for multiple residential units or other nonfarming uses, unless the producer demonstrates that the land remains devoted exclusively to agricultural production.

(3) REVIEW AND REPORT.—Each year, to ensure, to the maximum extent practicable, that payments are received only by producers, the Secretary shall—

(A) track each reconstitution of land that is reported by a producer that is covered by paragraph (2);

(B) include in any end-of-the-year review for purposes of payment limitations or other compliance inspections or other actions taken by the Secretary, a review to ensure compliance with paragraph (2); and

(C) submit to Congress a report that describes the results of the actions taken under subparagraphs (A) and (B).

In section 1302, strike subsection (c) and insert the following:

(c) PERMANENT REDUCTION IN BASE ACRES.—

(1) REDUCTION AT OPTION OF OWNER.—

(A) IN GENERAL.—The owner of a farm may reduce, at any time, the base acres for peanuts for the farm.

(B) EFFECT OF REDUCTION.—A reduction under subparagraph (A) shall be permanent and made in a manner prescribed by the Secretary.

(2) REQUIRED ACTION BY SECRETARY.—

(A) IN GENERAL.—The Secretary shall suspend all direct, counter-cyclical, and average crop revenue payments on base acres for peanuts for land that is no longer a farming operation or used in conjunction with a farming operation, as determined by the Secretary.

(B) REDUCTION.—The Secretary shall permanently reduce base acres for peanuts in a manner prescribed by the Secretary, for land that—

(i) has been developed for commercial or industrial use; or

(ii) has been subdivided and developed for multiple residential units or other nonfarming uses, unless the producer demonstrates that the land remains devoted exclusively to agricultural production.

(3) REVIEW AND REPORT.—Each year, to ensure, to the maximum extent practicable, that payments are received only by producers, the Secretary shall—

(A) track each reconstitution of land that is reported by a producer that is covered by paragraph (2);

(B) include in any end-of-the-year review for purposes of payment limitations or other compliance inspections or other actions taken by the Secretary, a review to ensure compliance with paragraph (2); and

(C) submit to Congress a report that describes the results of the actions taken under subparagraphs (A) and (B).

SA 3577. Mr. SMITH (for himself and Mr. WYDEN) submitted an amendment intended to be proposed by him to the bill H.R. 2419, to provide for the continuation of agricultural programs through fiscal year 2012, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle B of title XI, add the following:

SEC. 11____. EXTENSION OF PARTICIPATION OF BUREAU OF RECLAMATION IN DESCHUTES RIVER CONSERVANCY.

Section 301 of the Oregon Resource Conservation Act of 1996 (division B of Public Law 104–208; 110 Stat. 3009–534) is amended—

(1) in subsection (a)(1)—

(A) by striking ''Deschutes River Basin Working Group'' and inserting ''Deschutes River Conservancy Working Group''; and

(B) by striking subparagraph (B) and inserting the following:

''(B) 4 representatives of private interests, including—

''(i) 2 representatives from irrigated agriculture who actively farm more than 100 acres of irrigated land and are not irrigation district managers; and

''(ii) 2 representatives from the environmental community;'';

(2) in subsection (b)(3), by inserting before the period at the end the following: '', and up to a total amount of $2,000,000 during each of fiscal years 2007 through 2016''; and

(3) in subsection (h), by inserting before the period at the end the following: '', and $2,000,000 for each of fiscal years 2007 through 2016''.

SEC. 11_____. WALLOWA LAKE DAM REHABILITATION.

(a) DEFINITIONS.—In this section:

(1) ASSOCIATED DITCH COMPANIES, INCORPORATED.—The term ''Associated Ditch Companies, Incorporated'' means the nonprofit corporation established under the laws of the State of Oregon that operates Wallowa Lake Dam.

(2) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior, acting through the Commissioner of Reclamation.

(3) WALLOWA LAKE DAM REHABILITATION PROGRAM.—The term ''Wallowa Lake Dam Rehabilitation Program'' means the program for the rehabilitation of the Wallowa Lake Dam in Oregon, as contained in the engineering document titled, ''Phase I Dam Assessment and Preliminary Engineering Design'', dated December 2002, and on file with the Bureau of Reclamation.

(b) AUTHORIZATION TO PARTICIPATE IN PROGRAM.—

(1) GRANTS AND COOPERATIVE AGREEMENTS.—The Secretary may provide grants to, or enter into cooperative or other agreements with, tribal, State, and local governmental entities and Associated Ditch Companies, Incorporated, to plan, design, and construct facilities needed to implement the Wallowa Lake Dam Rehabilitation Program.

(2) CONDITIONS.—As a condition of providing funds under paragraph (1), the Secretary shall ensure that—

(A) the Wallowa Lake Dam Rehabilitation Program and activities under this section meet the standards of the dam safety program of the State of Oregon;

(B) Associated Ditch Companies, Incorporated, agrees to assume liability for any work performed, or supervised, with Federal funds provided to it under this section; and

(C) the United States shall not be liable for damages of any kind arising out of any act, omission, or occurrence relating to a facility rehabilitated or constructed with Federal funds provided under this section, during and after the period in which activities are conducted using Federal funds provided under this section.

(3) COST SHARING.—

(A) IN GENERAL.—The Federal share of the costs of activities authorized under this section shall not exceed 50 percent.

(B) EXCLUSIONS FROM FEDERAL SHARE.—There shall not be credited against the Federal share of those costs—

(i) any expenditure by the Bonneville Power Administration in the Wallowa River watershed; or

(ii) expenditures made by individual agricultural producers in any Federal commodity or conservation program.

(4) COMPLIANCE WITH STATE LAW.—In carrying out this section, the Secretary shall comply with applicable water laws of the State of Oregon.

(5) PROHIBITION ON HOLDING TITLE.—The Federal Government shall not hold title to any facility rehabilitated or constructed under this section.

(6) PROHIBITION ON OPERATION AND MAINTENANCE.—The Federal Government shall not be responsible for the operation or maintenance of any facility constructed or rehabilitated under this section.

(c) RELATIONSHIP TO OTHER LAW.—An activity funded under this section shall not be considered to be a supplemental or additional benefit under the Federal reclamation laws.

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary $6,000,000 to pay the Federal share of the costs of activities authorized under this section.

(e) SUNSET.—The authority of the Secretary to carry out this section terminates on the date that is 10 years after the date of enactment of this Act.

SEC. 11_____. LITTLE BUTTE/BEAR CREEK SUBBASINS, OREGON, WATER RESOURCE STUDY.

(a) AUTHORIZATION.—The Secretary of the Interior, acting through the Bureau of Reclamation, may participate in the Water for Irrigation, Streams, and the Economy Project water management feasibility study and environmental impact statement in accordance with the ''Memorandum of Agreement Between City of Medford and Bureau of Reclamation for the Water for Irrigation, Streams, and the Economy Project'', dated July 2, 2004.

(b) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There is authorized to be appropriated to the Bureau of Reclamation $500,000 to carry out activities under this section.

(2) NON-FEDERAL SHARE.—

(A) IN GENERAL.—The non-Federal share of an activity carried out under subsection (a) shall be 50 percent of the total cost to the Bureau of Reclamation of carrying out the activity.

(B) FORM.—The non-Federal share required under subparagraph (A) may be in the form of any in-kind services that the Secretary of the Interior determines would contribute substantially toward the conduct and completion of the study and environmental impact statement required under subsection (a).

(c) SUNSET.—The authority of the Secretary to carry out this section terminates on the date that is 10 years after the date of enactment of this Act.

SEC. 11_____. NORTH UNIT IRRIGATION DISTRICT.

The Act of August 10, 1954 (68 Stat. 679, chapter 663), is amended—

(1) in the first section—

(A) by inserting ''(referred to in this Act as the 'District')'' after ''irrigation district''; and

(B) by inserting ''(referred to in this Act as the 'Contract')'' after ''1953''; and

(2) by adding at the end the following:

''SEC. 3. ADDITIONAL TERMS.

''On approval of the District directors and notwithstanding project authorizing legislation to the contrary, the Contract is modified, without further action by the Secretary of the Interior, to include the following modifications:

''(1) In Article 8(a) of the Contract, by deleting 'a maximum of 50,000' and inserting 'approximately 59,000' after 'irrigation service to'.

''(2) In Article 11(a) of the Contract, by deleting 'The classified irrigable lands within the project comprise 49,817.75 irrigable acres, of which 35,773.75 acres are in Class A and 14,044.40 in Class B. These lands and the standards upon which the classification was made are described in the document entitled ''Land Classification, North Unit, Deschutes Project, 1953'' which is on file in the office of the Regional Director, Bureau of Reclamation, Boise, Idaho, and in the office of the District' and inserting 'The classified irrigable land within the project comprises 58,902.8 irrigable acres, all of which are authorized to receive irrigation water pursuant to water rights issued by the State of Oregon and have in the past received water pursuant to such State water rights.'.

''(3) In Article 11(c) of the Contract, by deleting ', with the approval of the Secretary,' after 'District may', by deleting 'the 49,817.75 acre maximum limit on the irrigable area is not exceeded' and inserting 'irrigation service is provided to no more than approximately 59,000 acres and no amendment to the District boundary is required' after 'time so long as'.

''(4) In Article 11(d) of the Contract, by inserting ', and may further be used for instream purposes, including fish or wildlife purposes, to the extent that such use is required by Oregon State law in order for the District to engage in, or take advantage of, conserved water projects as authorized by Oregon State law' after 'herein provided'.

''(5) By adding at the end of Article 12(d) the following: '(e) Notwithstanding the above subsections of this Article or Article 13 below, beginning with the irrigation season immediately following the date of enactment of the Food and Energy Security Act of 2007, the annual installment for each year, for the District, under the Contract, on account of the District's construction charge obligation, shall be a fixed and equal annual amount payable on June 30 the year following the year for which it is applicable, such that the District's total construction charge obligation shall be completely paid by June 30, 2044.'.

''(6) In Article 14(a) of the Contract, by inserting 'and for instream purposes, including fish or wildlife purposes, to the extent that such use is required by Oregon State law in order for the District to engage in, or take advantage of, conserved water projects as authorized by Oregon State law,' after 'and incidental stock and domestic uses', by inserting 'and for instream purposes as described above,' after 'irrigation, stock and domestic uses', and by inserting ', including natural flow rights out of the Crooked River held by the District' after 'irrigation system'.

''(7) In Article 29(a) of the Contract, by inserting 'and for instream purposes, including fish or wildlife purposes, to the extent that such use is required by Oregon State law in order for the District to engage in, or take advantage of, conserved water projects as authorized by Oregon State law' after 'provided in article 11'.

''(8) In Article 34 of the Contract, by deleting 'The District, after the election and upon the execution of this contract, shall promptly secure final decree of the proper State court approving and confirming this contract and decreeing and adjudging it to be a lawful, valid, and binding general obligation of the District. The District shall furnish to the United States certified copies of such decrees and of all pertinent supporting records.' after 'for that purpose.'.

''SEC. 4. FUTURE AUTHORITY TO RENEGOTIATE.

''The Secretary of the Interior (acting through the Commissioner of Reclamation) may in the future renegotiate with the District such terms of the Contract as the District directors determine to be necessary, only upon the written request of the District directors and the consent of the Commissioner of Reclamation.''.

SEC. 11_____. TUMALO WATER CONSERVATION PROJECT.

(a) DEFINITIONS.—In this section:

(1) DISTRICT.—The term ''District'' means the Tumalo Irrigation District, Oregon.

(2) PROJECT.—The term ''Project'' means the Tumalo Irrigation District Water Conservation Project authorized under section 3(a).

(3) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

(b) AUTHORIZATION TO PLAN, DESIGN AND CONSTRUCT THE TUMALO WATER CONSERVATION PROJECT.—

(1) AUTHORIZATION.—The Secretary, in cooperation with the District—

(A) may participate in the planning, design, and construction of the Tumalo Irrigation District Water Conservation Project in Deschutes County, Oregon; and

(B) for purposes of planning and designing the Project, shall take into account any appropriate studies and reports prepared by the District.

(2) COST-SHARING REQUIREMENT.—

(A) FEDERAL SHARE.—The Federal share of the total cost of the Project shall be 25 percent, which shall be nonreimbursable to the United States.

(B) CREDIT TOWARD NON-FEDERAL SHARE.—The Secretary shall credit toward the non-Federal share of the Project any amounts that the District provides toward the design, planning, and construction before the date of enactment of this Act.

(3) TITLE.—The District shall hold title to any facilities constructed under this section.

(4) OPERATION AND MAINTENANCE COSTS.—The District shall pay the operation and maintenance costs of the Project.

(5) EFFECT.—Any assistance provided under this section shall not be considered to be a supplemental or additional benefit under Federal reclamation law (the Act of June 17, 1902 (32 Stat. 388, chapter 1093), and Acts supplemental to and amendatory of that Act (43 U.S.C. 371 et seq.).

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary for the Federal share of the cost of the Project $4,000,000.

(d) TERMINATION OF AUTHORITY.—The authority of the Secretary to carry out this section terminates on the date that is 10 years after the date of enactment of this Act.

SA 3578. Mr. SMITH (for himself and Mr. WYDEN) submitted an amendment intended to be proposed by him to the bill H.R. 2419, to provide for the continuation of agricultural programs through fiscal year 2012, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle B of title XI, add the following:

SEC. 11_____. EXTENSION OF PARTICIPATION OF BUREAU OF RECLAMATION IN DESCHUTES RIVER CONSERVANCY.

Section 301 of the Oregon Resource Conservation Act of 1996 (division B of Public Law 104–208; 110 Stat. 3009–534) is amended—

(1) in subsection (a)(1)—

(A) by striking ''Deschutes River Basin Working Group'' and inserting ''Deschutes River Conservancy Working Group''; and

(B) by striking subparagraph (B) and inserting the following:

''(B) 4 representatives of private interests, including—

''(i) 2 representatives from irrigated agriculture who actively farm more than 100 acres of irrigated land and are not irrigation district managers; and

''(ii) 2 representatives from the environmental community;'';

(2) in subsection (b)(3), by inserting before the period at the end the following: '', and up to a total amount of $2,000,000 during each of fiscal years 2007 through 2016''; and

(3) in subsection (h), by inserting before the period at the end the following: '', and $2,000,000 for each of fiscal years 2007 through 2016''.

SA 3579. Mr. SMITH (for himself and Mr. WYDEN) submitted an amendment intended to be proposed by him to the bill H.R. 2419, to provide for the continuation of agricultural programs through fiscal year 2012, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle B of title XI, add the following:

SEC. 11_____. WALLOWA LAKE DAM REHABILITATION.

(a) DEFINITIONS.—In this section:

(1) ASSOCIATED DITCH COMPANIES, INCORPORATED.—The term ''Associated Ditch Companies, Incorporated'' means the nonprofit corporation established under the laws of the State of Oregon that operates Wallowa Lake Dam.

(2) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior, acting through the Commissioner of Reclamation.

(3) WALLOWA LAKE DAM REHABILITATION PROGRAM.—The term ''Wallowa Lake Dam Rehabilitation Program'' means the program for the rehabilitation of the Wallowa Lake Dam in Oregon, as contained in the engineering document titled, ''Phase I Dam Assessment and Preliminary Engineering Design'', dated December 2002, and on file with the Bureau of Reclamation.

(b) AUTHORIZATION TO PARTICIPATE IN PROGRAM.—

(1) GRANTS AND COOPERATIVE AGREEMENTS.—The Secretary may provide grants to, or enter into cooperative or other agreements with, tribal, State, and local governmental entities and Associated Ditch Companies, Incorporated, to plan, design, and construct facilities needed to implement the Wallowa Lake Dam Rehabilitation Program.

(2) CONDITIONS.—As a condition of providing funds under paragraph (1), the Secretary shall ensure that—

(A) the Wallowa Lake Dam Rehabilitation Program and activities under this section meet the standards of the dam safety program of the State of Oregon;

(B) Associated Ditch Companies, Incorporated, agrees to assume liability for any work performed, or supervised, with Federal funds provided to it under this section; and

(C) the United States shall not be liable for damages of any kind arising out of any act, omission, or occurrence relating to a facility rehabilitated or constructed with Federal funds provided under this section, during and after the period in which activities are conducted using Federal funds provided under this section.

(3) COST SHARING.—

(A) IN GENERAL.—The Federal share of the costs of activities authorized under this section shall not exceed 50 percent.

(B) EXCLUSIONS FROM FEDERAL SHARE.—There shall not be credited against the Federal share of those costs—

(i) any expenditure by the Bonneville Power Administration in the Wallowa River watershed; or

(ii) expenditures made by individual agricultural producers in any Federal commodity or conservation program.

(4) COMPLIANCE WITH STATE LAW.—In carrying out this section, the Secretary shall comply with applicable water laws of the State of Oregon.

(5) PROHIBITION ON HOLDING TITLE.—The Federal Government shall not hold title to any facility rehabilitated or constructed under this section.

(6) PROHIBITION ON OPERATION AND MAINTENANCE.—The Federal Government shall not be responsible for the operation or maintenance of any facility constructed or rehabilitated under this section.

(c) RELATIONSHIP TO OTHER LAW.—An activity funded under this section shall not be considered to be a supplemental or additional benefit under the Federal reclamation laws.

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary $6,000,000 to pay the Federal share of the costs of activities authorized under this section.

(e) SUNSET.—The authority of the Secretary to carry out this section terminates on the date that is 10 years after the date of enactment of this Act.

SA 3580. Mr. SMITH (for himself and Mr. WYDEN) submitted an amendment intended to be proposed by him to the bill H.R. 2419, to provide for the continuation of agricultural programs through fiscal year 2012, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle B of title XI, add the following:

SEC. 11_____. LITTLE BUTTE/BEAR CREEK SUBBASINS, OREGON, WATER RESOURCE STUDY.

(a) AUTHORIZATION.—The Secretary of the Interior, acting through the Bureau of Reclamation, may participate in the Water for Irrigation, Streams, and the Economy Project water management feasibility study and environmental impact statement in accordance with the ''Memorandum of Agreement Between City of Medford and Bureau of Reclamation for the Water for Irrigation, Streams, and the Economy Project'', dated July 2, 2004.

(b) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There is authorized to be appropriated to the Bureau of Reclamation $500,000 to carry out activities under this section.

(2) NON-FEDERAL SHARE.—

(A) IN GENERAL.—The non-Federal share of an activity carried out under subsection (a) shall be 50 percent of the total cost to the Bureau of Reclamation of carrying out the activity.

(B) FORM.—The non-Federal share required under subparagraph (A) may be in the form of any in-kind services that the Secretary of the Interior determines would contribute substantially toward the conduct and completion of the study and environmental impact statement required under subsection (a).

(c) SUNSET.—The authority of the Secretary to carry out this section terminates on the date that is 10 years after the date of enactment of this Act.

SA 3581. Mr. SMITH (for himself and Mr. WYDEN) submitted an amendment intended to be proposed by him to the bill H.R. 2419, to provide for the continuation of agricultural programs through fiscal year 2012, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle B of title XI, add the following:

SEC. 11_____. NORTH UNIT IRRIGATION DISTRICT.

The Act of August 10, 1954 (68 Stat. 679, chapter 663), is amended—

(1) in the first section—

(A) by inserting ''(referred to in this Act as the 'District')'' after ''irrigation district''; and

(B) by inserting ''(referred to in this Act as the 'Contract')'' after ''1953''; and

(2) by adding at the end the following:

''SEC. 3. ADDITIONAL TERMS.

''On approval of the District directors and notwithstanding project authorizing legislation to the contrary, the Contract is modified, without further action by the Secretary of the Interior, to include the following modifications:

''(1) In Article 8(a) of the Contract, by deleting 'a maximum of 50,000' and inserting 'approximately 59,000' after 'irrigation service to'.

''(2) In Article 11(a) of the Contract, by deleting 'The classified irrigable lands within the project comprise 49,817.75 irrigable acres, of which 35,773.75 acres are in Class A and 14,044.40 in Class B. These lands and the

standards upon which the classification was made are described in the document entitled ''Land Classification, North Unit, Deschutes Project, 1953'' which is on file in the office of the Regional Director, Bureau of Reclamation, Boise, Idaho, and in the office of the District' and inserting 'The classified irrigable land within the project comprises 58,902.8 irrigable acres, all of which are authorized to receive irrigation water pursuant to water rights issued by the State of Oregon and have in the past received water pursuant to such State water rights.'.

''(3) In Article 11(c) of the Contract, by deleting ', with the approval of the Secretary,' after 'District may', by deleting 'the 49,817.75 acre maximum limit on the irrigable area is not exceeded' and inserting 'irrigation service is provided to no more than approximately 59,000 acres and no amendment to the District boundary is required' after 'time so long as'.

''(4) In Article 11(d) of the Contract, by inserting ', and may further be used for instream purposes, including fish or wildlife purposes, to the extent that such use is required by Oregon State law in order for the District to engage in, or take advantage of, conserved water projects as authorized by Oregon State law' after 'herein provided'.

''(5) By adding at the end of Article 12(d) the following: '(e) Notwithstanding the above subsections of this Article or Article 13 below, beginning with the irrigation season immediately following the date of enactment of the Food and Energy Security Act of 2007, the annual installment for each year, for the District, under the Contract, on account of the District's construction charge obligation, shall be a fixed and equal annual amount payable on June 30 the year following the year for which it is applicable, such that the District's total construction charge obligation shall be completely paid by June 30, 2044.'.

''(6) In Article 14(a) of the Contract, by inserting 'and for instream purposes, including fish or wildlife purposes, to the extent that such use is required by Oregon State law in order for the District to engage in, or take advantage of, conserved water projects as authorized by Oregon State law,' after 'and incidental stock and domestic uses', by inserting 'and for instream purposes as described above,' after 'irrigation, stock and domestic uses', and by inserting ', including natural flow rights out of the Crooked River held by the District' after 'irrigation system'.

''(7) In Article 29(a) of the Contract, by inserting 'and for instream purposes, including fish or wildlife purposes, to the extent that such use is required by Oregon State law in order for the District to engage in, or take advantage of, conserved water projects as authorized by Oregon State law' after 'provided in article 11'.

''(8) In Article 34 of the Contract, by deleting 'The District, after the election and upon the execution of this contract, shall promptly secure final decree of the proper State court approving and confirming this contract and decreeing and adjudging it to be a lawful, valid, and binding general obligation of the District. The District shall furnish to the United States certified copies of such decrees and of all pertinent supporting records.' after 'for that purpose.'.

''SEC. 4. FUTURE AUTHORITY TO RENEGOTIATE.

''The Secretary of the Interior (acting through the Commissioner of Reclamation) may in the future renegotiate with the District such terms of the Contract as the District directors determine to be necessary, only upon the written request of the District directors and the consent of the Commissioner of Reclamation.''.

SA 3582. Mr. SMITH (for himself and Mr. WYDEN) submitted an amendment intended to be proposed by him to the bill H.R. 2419, to provide for the continuation of agricultural programs through fiscal year 2012, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle B of title XI, add the following:

SEC. 11_____. TUMALO WATER CONSERVATION PROJECT.

(a) DEFINITIONS.—In this section:

(1) DISTRICT.—The term ''District'' means the Tumalo Irrigation District, Oregon.

(2) PROJECT.—The term ''Project'' means the Tumalo Irrigation District Water Conservation Project authorized under section 3(a).

(3) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

(b) AUTHORIZATION TO PLAN, DESIGN AND CONSTRUCT THE TUMALO WATER CONSERVATION PROJECT.—

(1) AUTHORIZATION.—The Secretary, in cooperation with the District—

(A) may participate in the planning, design, and construction of the Tumalo Irrigation District Water Conservation Project in Deschutes County, Oregon; and

(B) for purposes of planning and designing the Project, shall take into account any appropriate studies and reports prepared by the District.

(2) COST-SHARING REQUIREMENT.—

(A) FEDERAL SHARE.—The Federal share of the total cost of the Project shall be 25 percent, which shall be nonreimbursable to the United States.

(B) CREDIT TOWARD NON-FEDERAL SHARE.—The Secretary shall credit toward the non-Federal share of the Project any amounts that the District provides toward the design, planning, and construction before the date of enactment of this Act.

(3) TITLE.—The District shall hold title to any facilities constructed under this section.

(4) OPERATION AND MAINTENANCE COSTS.—The District shall pay the operation and maintenance costs of the Project.

(5) EFFECT.—Any assistance provided under this section shall not be considered to be a supplemental or additional benefit under Federal reclamation law (the Act of June 17, 1902 (32 Stat. 388, chapter 1093), and Acts supplemental to and amendatory of that Act (43 U.S.C. 371 et seq.).

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary for the Federal share of the cost of the Project $4,000,000.

(d) TERMINATION OF AUTHORITY.—The authority of the Secretary to carry out this section terminates on the date that is 10 years after the date of enactment of this Act.

SA 3583. Mr. SUNUNU (for himself and Mr. GREGG) submitted an amendment intended to be proposed by him to the bill H.R. 2419, to provide for the continuation of agricultural programs through fiscal year 2012, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. __. CREDIT FOR BIOMASS FUEL PROPERTY EXPENDITURES.

(a) ALLOWANCE OF CREDIT.—Subsection (a) of section 25D, as amended by this Act, is amended—

(1) by striking ''and'' at the end of paragraph (3),

(2) by striking the period at the end of paragraph (4) and inserting '', and'', and

(3) by adding at the end the following new paragraph:

''(5) 30 percent of the qualified biomass fuel property expenditures made by the taxpayer during such year.''.

(b) MAXIMUM CREDIT.—Paragraph (1) of section 25D(b), as amended by this Act, is amended—

(1) by striking ''and'' at the end of subparagraph (C),

(2) by striking the period at the end of subparagraph (D) and inserting '', and'', and

(3) by adding at the end the following new subparagraph:

''(E) $4,000 with respect to any qualified biomass fuel property expenditures.''.

(c) MAXIMUM EXPENDITURES.—Subparagraph (A) of section 25D(e)(4), as amended by this Act, is amended—

(1) by striking ''and'' at the end of clause (iii),

(2) by striking the period at the end of clause (iv) and inserting '', and'', and

(3) by adding at the end the following new clause:

''(v) $6,667 in the case of any qualified biomass fuel property expenditures.''.

(d) QUALIFIED BIOMASS FUEL PROPERTY EXPENDITURES.—Subsection (d) of section 25D, as amended by this Act, is amended by adding at the end the following new paragraph:

''(5) QUALIFIED BIOMASS FUEL PROPERTY EXPENDITURE.—

''(A) IN GENERAL.—The term 'qualified biomass fuel property expenditure' means an expenditure for property—

''(i) which uses the burning of biomass fuel to heat a dwelling unit located in the United States and used as a residence by the taxpayer, or to heat water for use in such a dwelling unit, and

''(ii) which has a thermal efficiency rating of at least 75 percent.

''(B) BIOMASS FUEL.—For purposes of this section, the term 'biomass fuel' means any plant-derived fuel available on a renewable or recurring basis, including agricultural crops and trees, wood and wood waste and residues (including wood pellets), plants (including aquatic plants), grasses, residues, and fibers.''.

(e) TERMINATION.—Section 25D(g), relating to termination, is amended to read as follows:

''(g) TERMINATION.—

''(1) IN GENERAL.—Except as provided in paragraph (2), the credit allowed under this section shall not apply to property placed in service after December 31, 2008.

''(2) EXCEPTION.—The credit allowed under this section by reason of subsection (a)(5) shall not apply to property placed in service after December 31, 2012.''.

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to expenditures paid or incurred in taxable years beginning after December 31, 2007.

SA 3584. Mr. COBURN submitted an amendment intended to be proposed by him to the bill H.R. 2419, to provide for the continuation of agricultural programs through fiscal year 2012, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle F of title IV, add the following:

SEC. 49___. REPORT ON FEDERAL HUNGER PROGRAMS.

Not later than 2 years after the date of enactment of this Act, the Comptroller General of the United States shall submit to Congress a report that contains—

(1) a complete list of all Federal programs that seek to alleviate hunger or food insecurity or improve nutritional intake, including

programs that support collaboration, coordination, research, or infrastructure related to these issues;

(2) for each program listed under paragraph (1)—

(A) the total amount of Federal funds used to carry out the program in the most recent fiscal year for which comparable data is available;

(B) a comparison of the amount described in subparagraph (A) with the amount used to carry out a similar program 10 and 20 years previously;

(C) to the maximum extent practicable, the amount of Federal funds used under the program to provide direct food aid to individuals (including the amount used for the costs of administering the program); and

(D) a review to determine whether the program has been independently reviewed for effectiveness with respect to achieving the goals of the program, including—

(i) the findings of the independent review; and

(ii) for the 10 highest-cost programs, a determination of whether the review was conducted in accordance with accepted research principles;

(3) for the 10- and 20-year periods before the date of enactment of this Act, and for the most recent year for which data is available, the estimated number of people in the United States who are hungry (or food insecure) or obese; and

(4) as of the date of submission of the report—

(A) the number of employees of the Department of Agriculture, including contractors and other individuals whose salary is paid in full or part by the Department; and

(B) the number of farmers and other agricultural producers in the United States that receive some form of assistance from the Department.

SA 3585. Mr. COBURN submitted an amendment intended to be proposed by him to the bill H.R. 2419, to provide for the continuation of agricultural programs through fiscal year 2012, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. _____. EXPENDITURE OF CERTAIN FUNDS.

None of the funds made available or authorized to be appropriated by this Act or an amendment made by this Act (including funds for any loan, grant, or payment under a contract) may be expended for any activity relating to the planning, construction, or maintenance of, travel to, or lodging at a golf course, resort, or casino.

SA 3586. Mr. FEINGOLD submitted an amendment intended to be proposed to amendment SA 3500 proposed by Mr. HARKIN (for himself, Mr. CHAMBLISS, Mr. BAUCUS, and Mr. GRASSLEY) to the bill H.R. 2419, to provide for the continuation of agricultural programs through fiscal year 2012, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle F of title VII, add the following:

SEC. 7____. SENSE OF SENATE REGARDING ORGANIC RESEARCH.

It is the sense of the Senate that—

(1) the Secretary should recognize that sales of certified organic products have been expanding by 17 to 20 percent per year for more than a decade, but research and outreach activities relating specifically to certified organic production growth and processing of agricultural products (as defined in section 2103 of the Organic Foods Production Act of 1990 (7 U.S.C. 6502)) has not kept pace with this expansion;

(2) research conducted specifically on organic methods and production systems benefits organic and conventional producers and contributes to the strategic goals of the Department of Agriculture, resulting in benefits for trade, human health, the environment, and overall agricultural productivity;

(3) in order to meet the needs of the growing organic sector, the Secretary should use a portion of the total annual funds of the Agricultural Research Service for research specific to organic food and agricultural systems that is at least commensurate with the market share of the organic sector of the domestic food retail market; and

(4) the increase in funding described in paragraph (3) should include funding for efforts—

(A) to establish long-term core capacities for organic research;

(B) to assist organic farmers and farmers intending to transition to organic production systems; and

(C) to disseminate research results through the Alternative Farming Systems Information Center of the National Agriculture Library.

SA 3587. Mr. FEINGOLD submitted an amendment intended to be proposed to amendment SA 3500 proposed by Mr. HARKIN (for himself, Mr. CHAMBLISS, Mr. BAUCUS, and Mr. GRASSLEY) to the bill H.R. 2419, to provide for the continuation of agricultural programs through fiscal year 2012, and for other purposes; which was ordered to lie on the table; as follows:

On page 1007, strike line 16 and insert the following:

(T) The research, extension, and education programs authorized by section 407 of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7627) relating to the viability and competitiveness of small- and medium-sized dairy, livestock, crop, and other commodity operations.

(U) Other programs, including any pro-

On page 1036, between lines 2 and 3, insert the following:

(d) SENSE OF CONGRESS REGARDING CERTAIN RESEARCH, EXTENSION, AND EDUCATION PROGRAMS.—It is the sense of Congress that the Secretary should continue to allocate sufficient funds under sections 401(c)(2)(F) and 407 of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7621(c)(2)(F), 7627) for research, extension, and education programs relating to the viability and competitiveness of small- and medium-sized dairy, livestock, crop, and other commodity operations in existence on the date of enactment of this Act.

SA 3588. Mr. FEINGOLD submitted an amendment intended to be proposed to amendment SA 3500 proposed by Mr. HARKIN (for himself, Mr. CHAMBLISS, Mr. BAUCUS, and Mr. GRASSLEY) to the bill H.R. 2419, to provide for the continuation of agricultural programs through fiscal year 2012, and for other purposes; which was ordered to lie on the table; as follows:

In title I, at the end of subtitle D, insert the following:

SEC. 1610. MODIFIED BLOC VOTING.

(a) IN GENERAL.—Notwithstanding paragraph (12) of section 8c of the Agricultural Adjustment Act (7 U.S.C. 608c), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, in the case of the referendum conducted as part of the consolidation of Federal milk marketing orders and related reforms under section 143 of the Agricultural Market Transition Act (7 U.S.C. 7253), a cooperative association of milk producers may not elect to hold a vote on behalf of its members as authorized by that paragraph, unless the cooperative association provides to each producer, on behalf of which the cooperative association is expressing approval or disapproval, at the time a producer joins the cooperative association and annually thereafter, written notice that contains—

(1) information regarding the procedures by which a producer may cast an individual ballot;

(2) contact information for the milk marketing order information clearinghouse described in subsection (b) and procedures to be added to a notification list described in subsection (c); and

(3) information about a point of contact within the cooperative association to inquire regarding the manner in which the cooperative association intends to vote on behalf of the membership.

(b) INFORMATION CLEARINGHOUSE.—Each milk marketing order shall establish a information clearinghouse on referendums on Federal milk marketing order reform that includes—

(1) information on procedures by which a producer may cast an individual ballot;

(2) due dates for each specific referendum;

(3) the text of each referendum question under consideration; and

(4) a description in plain language of the question and relevant background information.

(c) NOTIFICATION LIST FOR UPCOMING REFERENDUM.—Each Federal milk marketing order shall—

(1) make available the information described in subsection (b) through a website; and

(2) distribute to each producer an alert on each upcoming referendum through a fax list, email distribution list, or United States mail list, as elected by each producer individually.

(d) TABULATION OF BALLOTS.—At the time at which ballots from a vote under subsection (a) are tabulated by the Secretary, the Secretary shall adjust the vote of a cooperative association to reflect individual votes submitted by producers that are members of, stockholders in, or under contract with, the cooperative association.

SA 3589. Mr. FEINGOLD submitted an amendment intended to be proposed to amendment SA 3500 proposed by Mr. HARKIN (for himself, Mr. CHAMBLISS, Mr. BAUCUS, and Mr. GRASSLEY) to the bill H.R. 2419, to provide for the continuation of agricultural programs through fiscal year 2012, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 175, strike line 14 and all that follows through page 176, line 21, and insert the following:

(1) ensuring that the competitiveness of dairy products with other competing products in the marketplace is preserved and enhanced;

(2) ensuring that dairy producers receive fair and reasonable minimum prices;

(3) enhancing the competitiveness of United States dairy producers in world markets;

(4) preventing anticompetitive behavior and ensuring that dairy markets are not prone to manipulation;

(5) increasing the responsiveness of the Federal milk marketing order system to market forces;

(6) streamlining and expediting the process by which amendments to Federal milk market orders are adopted;

(7) simplifying the Federal milk marketing order system;

(8) evaluating whether the Federal milk marketing order system, established during the Great Depression, continues to serve the interests of the public, dairy processors, and dairy producers;

(9) evaluating whether Federal milk marketing orders are operating in a manner to minimize costs to taxpayers and consumers, while still maintaining a fair price for producers;

(10) evaluating the nutritional composition of milk, including the potential benefits and costs of adjusting the milk content standards;

(11) evaluating the economic benefits to milk producers of establishing a 2-class system of classifying milk consisting of a fluid milk class and a manufacturing grade milk class, with the price of both classes determined using the component prices of butterfat, protein, and other solids; and

(12) evaluating a change in advance pricing that is used to calculate the advance price of Class II skim milk under Federal milk marketing orders using the 4-week component prices that are used to calculate prices for Class III and Class IV milk.

SA 3590. Mr. BOND submitted an amendment intended to be proposed to amendment SA 3500 proposed by Mr. HARKIN (for himself, Mr. CHAMBLISS, Mr. BAUCUS, and Mr. GRASSLEY) to the bill H.R. 2419, to provide for the continuation of agricultural programs through fiscal year 2012, and for other purposes; which was ordered to lie on the table; as follows:

On page 576, strike lines 13 through 17 and insert the following:

(2) in subsection (b)—

(A) by striking ''(b) Coupons'' and inserting the following:

''(b) USE.—

''(1) IN GENERAL.—Benefits'';

(B) in paragraph (1) (as designated by subparagraph (A)), by striking the second proviso; and

(C) by adding at the end the following:

''(2) STUDY.—As soon as practicable after the date of enactment of this paragraph, the Comptroller General of the United States shall conduct a study of the effects of the Secretary issuing a rule requiring that benefits shall only be used to purchase food that is included in the most recent applicable thrifty food plan market basket.'';

SA 3591. Mr. BOND submitted an amendment proposed by him to the bill H.R. 2419, to provide for the continuation of agricultural programs through fiscal year 2012, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle B of title XI, add the following:

SEC. 11___. FARM REGULATORY CONSIDERATION.

(a) DEFINITIONS.—Section 601 of title 5, United States Code, is amended by adding at the end the following:

''(9) AGRICULTURAL ENTITY.—The term 'agricultural entity' means any entity engaged in any farming, ranching, or forestry activity, including—

''(A) cultivation and tillage of soil;

''(B) the production of milk and milk products;

''(C) the production, cultivation, growing, and harvesting of any agricultural or horticultural commodity;

''(D) the raising of livestock, bees, furbearing animals, or poultry; and

''(E) any practice (including any forestry or lumbering operation) performed by a producer on a farm or on a farm as incident to or in conjunction with an activity described in this paragraph, including—

''(i) preparation for market; and

''(ii) delivery to storage, to market, or to carriers for transportation to market.''.

(b) REGULATORY AGENDA.—Section 602 of that title is amended—

(1) in subsections (a)(1) and (c), by inserting ''or agricultural entities'' after ''small entities'' each place it appears; and

(2) in subsection (b), by inserting ''or the Department of Agriculture, as appropriate,'' after ''Administration''.

(c) INITIAL REGULATORY FLEXIBILITY ANALYSIS.—Section 603 of that title is amended—

(1) by inserting ''or agricultural entities'' after ''small entities'' each place it appears; and

(2) in subsection (a), in the fourth sentence, by inserting ''or the Department of Agriculture, as appropriate'' after ''Administration''.

(d) FINAL REGULATORY FLEXIBILITY ANALYSIS.—Section 604 of that title is amended by inserting ''or agricultural entities'' after ''small entities'' each place it appears.

(e) AVOIDANCE OF DUPLICATIVE OR UNNECESSARY ANALYSES.—Section 605(b) of that title is amended—

(1) in the first sentence, by inserting ''or agricultural entities'' after ''small entities''; and

(2) in the third sentence, by inserting ''or the Department of Agriculture, as appropriate'' after ''Administration''.

(f) PROCEDURES FOR GATHERING COMMENTS.—Section 609 of that title is amended—

(1) by inserting ''or agricultural entities'' after ''small entities'' each place it appears;

(2) in subsection (b)—

(A) in paragraph (1), by inserting ''or the Department of Agriculture, as appropriate,'' after ''Administration'';

(B) in paragraph (2), by inserting ''appropriate'' before ''Chief Counsel''; and

(C) in paragraphs (3) and (4), by inserting ''appropriate'' before ''Chief Counsel'' each place it appears;

(3) in subsection (d), by inserting '', the Department of the Interior,'' after ''Agency''; and

(4) in subsection (e), in the first sentence, by inserting ''appropriate'' before ''Chief Counsel''.

(g) PERIODIC REVIEW OF RULES.—Section 610 of that title is amended by inserting ''or agricultural entities'' after ''small entities'' each place it appears.

(h) JUDICIAL REVIEW.—Section 611(a) of that title is amended—

(1) in paragraphs (1) and (3), by inserting ''or agricultural entity'' after ''small entity'' each place it appears; and

(2) in paragraph (4)(B), by inserting ''or agricultural entities'' after ''small entities''.

(i) REPORTS AND INTERVENTION RIGHTS.—Section 612 of that title is amended—

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

''(a) MONITORING AND REPORTS.—The Chief Counsels for Advocacy of the Small Business Administration and the Department of Agriculture shall—

''(1) monitor agency compliance with this chapter; and

''(2) not less frequently than once each year, submit a report describing the results of the monitoring conducted under paragraph (1) to—

''(A) the President;

''(B) the Committees on Agriculture, the Judiciary, and Small Business of the House of Representatives; and

''(C) the Committees on Agriculture, Nutrition, and Forestry, the Judiciary, and Small Business and Entrepreneurship of the Senate.'';

(2) in subsection (b)—

(A) in the first sentence, by inserting ''or the Department of Agriculture'' after ''Administration''; and

(B) in the second sentence, by inserting ''or agricultural entities'' after ''small entities'' each place it appears; and

(3) in subsection (c), by inserting ''or the Department of Agriculture'' after ''Administration''.

(j) OFFICE OF ADVOCACY OF DEPARTMENT OF AGRICULTURE.—Chapter 6 of part I of title 5, United States Code, is amended by adding at the end the following:

''§ 613. Office of Advocacy of Department of Agriculture

''(a) ESTABLISHMENT.—There is established in the Department of Agriculture an Office of Advocacy (referred to in this section as the 'Office').

''(b) CHIEF COUNSEL.—The Office shall be directed by the Chief Counsel for Advocacy of the Department of Agriculture, who—

''(1) shall be appointed by the President, by and with the advice and consent of the Senate; and

''(2) shall not be an employee of any Federal department or agency on the day before the date of appointment.

''(c) DUTIES.—The Chief Counsel of the Office shall—

''(1) examine—

''(A) the role of agriculture in the United States economy; and

''(B) the contribution made by agricultural entities in improving the economy;

''(2)(A) measure the direct costs and other effects of regulation of agricultural entities; and

''(B) make recommendations (including recommendations relating to proposed legislation) for eliminating excessive or unnecessary regulation of agricultural entities;

''(3)(A) determine the impact of applicable tax structure on agricultural entities; and

''(B) make recommendations (including recommendations relating to proposed legislation) for modifying the tax structure to enhance the ability of agricultural entities to contribute to the United States economy;

''(4) study the ability of financial markets and institutions to meet the credit needs of agricultural entities and determine the impact of demands for credit by the Federal Government on agricultural entities;

''(5) evaluate the efforts of Federal departments and agencies, businesses, and industry to assist minority-owned agricultural entities;

''(6) make other appropriate recommendations to assist the development of minority-owned and other agricultural entities;

''(7) recommend specific measures for creating an environment in which all agricultural entities will have the opportunity to compete effectively and fulfill potential and determine the reasons, if any, for successes and failures of agricultural entities; and

''(8) evaluate the programs of each Federal department and agency, and of private industry, to assist agricultural entities owned and controlled by veterans (including service-disabled veterans)—

''(A) to provide statistics regarding use of the programs by those agricultural entities; and

''(B) to provide appropriate recommendations to the Secretary of Agriculture and

Congress in order to promote the establishment and growth of those agricultural entities.

''(d) ADDITIONAL RESPONSIBILITIES.—In addition to the duties described in subsection (c), the Chief Counsel shall, on a continuing basis—

''(1) serve as a focal point for the receipt of complaints, criticism, and suggestions concerning the policies and activities of Federal departments and agencies that affect agricultural entities;

''(2) advise agricultural entities on methods of resolving issues relating to the relationship of the agricultural entity with the Federal Government;

''(3) develop proposals for modifications to the policies and activities of any Federal department or agency to advance the purposes of agricultural entities;

''(4) represent the interests of agricultural entities to other Federal departments and agencies the policies and activities of which may affect agricultural entities; and

''(5) solicit assistance from public and private agencies, businesses, and other organizations in disseminating information on—

''(A) the programs and services provided by the Federal Government to benefit agricultural entities; and

''(B) methods by which agricultural entities can participate in or otherwise benefit from those programs and services.''.

SA 3592. Mr. DOMENICI submitted an amendment intended to be proposed to amendment SA 3500 proposed by Mr. HARKIN (for himself, Mr. CHAMBLISS, Mr. BAUCUS, and Mr. GRASSLEY) to the bill H.R. 2419, to provide for the continuation of agricultural programs through fiscal year 2012, and for other purposes; which was ordered to lie on the table; as follows:

On page 1362, between lines 19 and 20, insert the following:

SEC. 1107___. CONVEYANCE OF LAND TO CHIHUAHUAN DESERT NATURE PARK.

(a) DEFINITIONS.—In this section:

(1) BOARD.—The term ''Board'' means the Chihuahuan Desert Nature Park Board.

(2) NATURE PARK.—The term ''Nature Park'' means the Chihuahuan Desert Nature Park, Inc., a nonprofit corporation in the State of New Mexico.

(b) CONVEYANCE OF LAND.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, subject to valid existing rights and subsection (c), the Secretary shall convey to the Nature Park, by quitclaim deed, for no consideration, all right, title, and interest of the United States in and to the land described in paragraph (2)

(2) DESCRIPTION OF LAND.—

(A) IN GENERAL.—The parcel of land referred to in paragraph (1) consists of the approximately 935.62 acres of land in Dona Ana County, New Mexico, which is more particularly described—

(i) as sections 17, 20, and 21 of T. 21 S., R. 2 E., N.M.P.M.; and

(ii) in an easement deed dated May 14, 1998, from the Department of Agriculture to the Nature Park.

(B) MODIFICATIONS.—The Secretary may modify the description of the land under subparagraph (A) to—

(i) correct errors in the description; or

(ii) facilitate management of the land.

(c) CONDITIONS.—The conveyance of land under subsection (b) shall be subject to—

(1) the reservation by the United States of all mineral and subsurface rights to the land, including any geothermal resources;

(2) the condition that the Board pay any costs relating to the conveyance;

(3) any rights-of-way reserved by the Secretary;

(4) a covenant or restriction in the deed to the land requiring that—

(A) the land may be used only for educational or scientific purposes; and

(B) if the land is no longer used for the purposes described in subparagraph (A), the land may, at the discretion of the Secretary, revert to the United States in accordance with subsection (d); and

(5) any other terms and conditions that the Secretary determines to be appropriate.

(d) REVERSION.—If the land conveyed under subsection (b) is no longer used for the purposes described in subsection (c)(4)(A)—

(1) the land may, at the discretion of the Secretary, revert to the United States; and

(2) if the Secretary chooses to have the land revert to the United States, the Secretary shall—

(A) determine whether the land is environmentally contaminated, including contamination from hazardous wastes, hazardous substances, pollutants, contaminants, petroleum, or petroleum by-products; and

(B) if the Secretary determines that the land is environmentally contaminated, the Nature Park, the successor to the Nature Park, or any other person responsible for the contamination shall be required to remediate the contamination.

(e) WITHDRAWAL.—All federally owned mineral and subsurface rights to the land described in subsection (b)(2) are withdrawn from—

(1) location, entry, and patent under the mining laws; and

(2) the operation of the mineral leasing laws, including the geothermal leasing laws.

(f) WATER RIGHTS.—Nothing in this section authorizes the conveyance of water rights to the Nature Park.

SA 3593. Mr. DORGAN (for himself and Mr. BROWNBACK) submitted an amendment intended to be proposed by him to the bill H.R. 2419, to provide for the continuation of agricultural programs through fiscal year 2012, and for other purposes; which was ordered to lie on the table; as follows:

On page 1401, line 21, insert ''materially participating in the production of agricultural or horticultural commodities described in subparagraph (A) or individuals'' after ''individuals''.

On page 1402, line 2, insert ''materially participating in the production of agricultural or horticultural commodities described in subparagraph (A) or individuals'' after ''individuals''.

On page 1402, line 6, insert ''before, on, or'' after ''made''.

SA 3594. Mr. DORGAN (for himself and Mr. BROWNBACK) submitted an amendment intended to be proposed by him to the bill H.R. 2419, to provide for the continuation of agricultural programs through fiscal year 2012, and for other purposes; which was ordered to lie on the table; as follows:

On page 1401, line 21, insert ''materially participating in the production of agricultural or horticultural commodities described in subparagraph (A) or individuals'' after ''individuals''.

On page 1402, line 2, insert ''materially participating in the production of agricultural or horticultural commodities described in subparagraph (A) or individuals'' after ''individuals''.

SA 3595. Mr. SANDERS submitted an amendment intended to be proposed to amendment SA 3500 proposed by Mr. HARKIN (for himself, Mr. CHAMBLISS, Mr. BAUCUS, and Mr. GRASSLEY) to the bill H.R. 2419, to provide for the continuation of agricultural programs through fiscal year 2012, and for other purposes; which was ordered to lie on the table; as follows:

On page 842, between line 13 and 14, insert the following:

SEC. 6034. PUBLIC HEARINGS UPON APPLICATIONS FOR CERTAIN TRANSACTIONS BY TELECOMMUNICATIONS PROVIDERS.

(a) CONCENTRATION OF WIRELESS MARKET.—

(1) IN GENERAL.—If a wireless telephone service acquisition, merger, or license transfer would result in 70 percent or more of the wireless customers living in the rural area of a State having their wireless telephone service provided by 1 wireless telephone service provider, then the Secretary of Agriculture, acting through the Office of Rural Development and the Rural Development Telecommunications Program, shall hold at least 3 public hearings in geographically diverse rural areas of that State to discuss the impact of the proposed acquisition, merger, or transfer on the economic development and competitiveness of that State.

(2) FCC RESPONSIBILITY.—The Federal Communications Commission shall be responsible for notifying the Secretary of Agriculture upon its receipt of an application for an acquisition, merger, or license transfer that satisfies the concentration requirement under paragraph (1).

(b) HEARINGS.—

(1) IN GENERAL.—The public hearings required under subsection (a) shall be held at such times and such locations so as to allow the broadest segment of the population of a State to attend.

(2) NOTICE TO THE PUBLIC.—The Secretary of Agriculture shall provide at least 90 days notice to the public of the time and place of such hearings, including by—

(A) publishing such notice—

(i) on the website of the Department of Agriculture; and

(ii) in popular circulated newspapers and other written publications in the State; and

(B) broadcasting such notice on local radio and television stations serving the State.

(3) COMMENCEMENT OF NOTICE TIMELINES.—Notice of such hearings shall be given after a posting of a Public Notice by the Federal Communications Commission of its receipt of an application for an acquisition, merger, or license transfer that satisfies the concentration requirement under subsection (a)(1).

(c) REPORT.—Not later than 180 days after the final hearing required under subsection (a), the Secretary of Agriculture shall submit a report to the Federal Communications Commission—

(1) describing the issues, concerns, and comments raised and discussed at the public hearings required under subsection (a); and

(2) on the impact of the proposed acquisition, merger, or transfer on the rural areas of the State, including an examination of the impact such acquisition, merger, or transfer will have on the economic development and competitiveness of the State.

(d) FCC CONSIDERATION.—The Federal Communications Commission shall consider the report submitted under subsection (c) as part of its evaluation of any wireless telephone service acquisition, merger, or license transfer and shall take action, if any, on that acquisition, merger, or license transfer only after receipt of such report.

(e) DEFINITIONS.—In this section, the following definitions shall apply:

(1) RURAL AREA.—The term ''rural area'' has the same meaning given the term in section 343(a)(13)(C) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1991(a)(13)(C)).

(2) STATE.—The term ''State'' means a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.

(3) WIRELESS TELEPHONE SERVICES.—The term ''wireless telephone services'' has the same meaning given the term ''commercial mobile radio services'' as such term is defined in section 332(c) of the Communications Act of 1934 (47 U.S.C. 332(c)).

(4) WIRELESS TELEPHONE SERVICE PROVIDER.—The term ''wireless telephone service provider'' means any entity that provides wireless telephone service.

SA 3596. Mr. SESSIONS submitted an amendment intended to be proposed to amendment SA 3500 proposed by Mr. HARKIN (for himself, Mr. CHAMBLISS, Mr. BAUCUS, and Mr. GRASSLEY) to the bill H.R. 2419, to provide for the continuation of agricultural programs through fiscal year 2012, and for other purposes; which was ordered to lie on the table; as follows:

On page 1557, between lines 14 and 15, insert the following:

SEC. 12410. FARM SAVINGS ACCOUNTS.

(a) IN GENERAL.—Part VI of subchapter B of chapter 1 (relating to itemized deductions for individuals and corporations) is amended by inserting after section 199 the following new section:

''SEC. 200. FARM SAVINGS ACCOUNTS.

''(a) DEDUCTION ALLOWED.—In the case of a qualified farmer, there shall be allowed as a deduction for the taxable year an amount equal to the aggregate amount paid in cash during such taxable year by or on behalf of such taxpayer to a farm savings account of such taxpayer.

''(b) MINIMUM CONTRIBUTION REQUIREMENT.—A deduction shall not be allowed under subsection (a) for the taxable year with respect to a taxpayer if, during such taxable year, the aggregate amount contributed by such taxpayer to farm savings accounts of the taxpayer is not equal to at least 2 percent of the taxpayer's 3-year average of income derived from farming or ranching.

''(c) ACCOUNT BALANCE LIMITATION.—A deduction shall not be allowed under subsection (a) with respect to any portion of a contribution to a farm savings account of a taxpayer if such contribution would result in the sum of the balances in all such accounts of such taxpayer to exceed 150 percent of the taxpayer's 3-year average of income derived from farming or ranching.

''(d) QUALIFIED FARMER.—For purposes of this section, the term 'qualified farmer' means, with respect to any taxable year, any entity or individual who, during such year—

''(1) was engaged in the trade or business of farming or ranching,

''(2) has in effect an agreement with the Secretary of Agriculture under section 523(f) of the Federal Crop Insurance Act to accept contributions under this section in lieu of—

''(A) receiving, after the expiration of any transition period applicable to the taxpayer under subsection (g)(2), any Federal subsidy toward the premium of any crop insurance policy (other than catastrophic risk protection under section 508(b) of the Federal Crop Insurance Act), or

''(B) obtaining noninsured crop disaster assistance under section 196 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7333), and

''(3) has—

''(A) in the case of insurable commodities, at least catastrophic risk protection provided under section 508(b) of the Federal Crop Insurance Act (7 U.S.C. 1508(b)), or similar coverage, and

''(B) in the case of noninsurable commodities, coverage under the noninsured crop assistance program under section 196 of the Federal Agriculture Improvement and Reform Act.

''(e) FARM SAVINGS ACCOUNT.—For purposes of this section—

''(1) IN GENERAL.—The term 'farm savings account' means a trust created or organized in the United States as a farm savings account exclusively for the purpose of making qualified distributions, but only if the written governing instrument creating the trust meets the following requirements:

''(A) No contribution will be accepted unless it is in cash.

''(B) The trustee is a bank (as defined in section 408(n)) or another person who demonstrates to the satisfaction of the Secretary that the manner in which such person will administer the trust will be consistent with the requirements of this section.

''(C) The assets of the trust will be invested in securities issued by the United States Treasury or in such other low-risk interest-bearing securities as are approved by the Secretary.

''(D) The assets of the trust will not be commingled with other property except in a common trust fund or common investment fund.

''(E) The interest of a taxpayer in the balance in his account is nonforfeitable.

''(2) QUALIFIED DISTRIBUTION.—The term 'qualified distribution' means any amount paid from a farm savings account to the account beneficiary to the extent that such amount when added to all other amounts paid from such accounts to such beneficiary during the taxable year (other than rollover contributions) does not exceed the excess (if any) of—

''(A) 80 percent of such beneficiary's 3-year average of income derived from farming or ranching, over

''(B) such beneficiary's gross income derived from farming or ranching for the taxable year.

''(3) 3-YEAR AVERAGE OF INCOME DERIVED FROM FARMING OR RANCHING.—The term '3-year average of income derived from farming or ranching' means, with respect to any taxpayer—

''(A) the sum of the taxpayer's gross income derived from farming or ranching for the taxable year and the 2 preceding taxable years, divided by

''(B) the number of taxable years taken into account under clause (i) during which such taxpayer was engaged in the trade or business of farming or ranching.

''(4) ACCOUNT BENEFICIARY.—The term 'account beneficiary' means the taxpayer on whose behalf the farm savings account was established.

''(5) SPECIAL RULES.—

''(A) FEDERAL CONTRIBUTIONS.—For purposes of this title, any amount paid to a farm savings account by the Secretary of Agriculture under subsection (g) shall be included in the account beneficiary's gross income in the taxable year for which the amount was contributed, whether or not a deduction for such payment is allowable under this section to the beneficiary.

''(B) OTHER RULES.—Rules similar to the following rules shall apply for purposes of this section:

''(i) Section 219(d)(2) (relating to no deduction for rollovers).

''(ii) Section 219(f)(3) (relating to time when contributions deemed made).

''(iii) Section 408(g) (relating to community property laws).

''(iv) Section 408(h) (relating to custodial accounts).

''(f) TAX TREATMENT OF ACCOUNTS.—

''(1) IN GENERAL.—A farm savings account is exempt from taxation under this subtitle unless such account has ceased to be a farm savings account. Notwithstanding the preceding sentence, any such account is subject to the taxes imposed by section 511 (relating to imposition of tax on unrelated business income of charitable, etc. organizations).

''(2) TERMINATION OF ACCOUNTS.—If the account beneficiary ceases to engage in the trade or business of farming or ranching, such trade or business becomes covered under any crop insurance policy for which a premium subsidy is paid by the Secretary of Agriculture (other than catastrophic risk protection under section 508(b) of the Federal Crop Insurance Act), or the account beneficiary seeks noninsured crop disaster assistance under section 196 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7333)—

''(A) all farm savings accounts of such taxpayer shall cease to be such accounts, and

''(B) the balance of all such accounts shall be treated as—

''(i) distributed to such taxpayer, and

''(ii) not paid in a qualified distribution.

''(g) FEDERAL CONTRIBUTION TO ACCOUNTS.—

''(1) CONTRIBUTIONS REQUIRED.—Using amounts in the insurance fund established under section 516(c) of the Federal Crop Insurance Act (7 U.S.C. 1516(c)), the Secretary of Agriculture shall match the contributions made for a taxable year to farm savings accounts of a taxpayer who has entered into the agreement with the Secretary required by subsection (d)(2) in an aggregate amount equal to the lesser of—

''(A) the amount of any premium that would be paid by the Federal Crop Insurance Corporation under section 508(e) of the Federal Crop Insurance Act (but for the agreement with the Secretary of Agriculture under subsection (d)(2)), or

''(B) 2 percent of the taxpayer's 3-year average of income derived from farming or ranching.

''(2) TRANSITION PERIODS.—Notwithstanding paragraph (1), during the first 3 taxable years for which the Secretary of Agriculture makes contributions under such paragraph to farm savings accounts of a taxpayer and during the first 3 taxable years following any taxable year during which there occurs a qualified distribution from a farm savings account of the taxpayer, the amount contributed by the Secretary may not exceed—

''(A) for the first taxable year, 25 percent of the amount the Secretary would otherwise contribute under paragraph (1) for that taxable year,

''(B) for the second taxable year, 50 percent of the amount the Secretary would otherwise contribute under paragraph (1) for that taxable year, and

''(C) for the third taxable year, 75 percent of the amount the Secretary would otherwise contribute under paragraph (1) for that taxable year.

''(3) CROP INSURANCE COVERAGE.—

''(A) IN GENERAL.—During any transition period applicable to a taxpayer under paragraph (2), the taxpayer would be covered with any claim at the same level of coverage purchased, but subject to the condition that any claim would first use amounts in the farm savings accounts of a taxpayer before conventional crop insurance would make any payment, if necessary.

''(B) CATASTROPHIC COVERAGE.—If a taxpayer with a farm savings account would be

covered under catastrophic risk protection under section 508(b) of the Federal Crop Insurance Act or under the noninsured crop assistance program under section 196 of the Federal Agriculture Improvement and Reform Act, such taxpayer shall be covered with respect to such claim under such protection or program, but subject to the condition that any claim would first use amounts in the farm savings accounts of a taxpayer before any payment was made with respect to such claim.

''(h) TAX TREATMENT OF DISTRIBUTIONS.—

''(1) IN GENERAL.—Any amount paid or distributed out of a farm savings account (other than a rollover contribution described in paragraph (4)) shall be included in gross income.

''(2) ADDITIONAL TAX ON NON-QUALIFIED DISTRIBUTIONS.—

''(A) IN GENERAL.—The tax imposed by this chapter on the account beneficiary for any taxable year in which there is a payment or distribution from a farm savings account of such beneficiary which is not a qualified distribution shall be increased by 15 percent of the amount of such payment or distribution which is not a qualified distribution.

''(B) EXCEPTION FOR DISABILITY OR DEATH.—Subparagraph (A) shall not apply if the payment or distribution is made after the account beneficiary becomes disabled within the meaning of section 72(m)(7) or dies.

''(3) EXCESS CONTRIBUTIONS RETURNED BEFORE DUE DATE OF RETURN.—

''(A) IN GENERAL.—If any excess contribution is contributed for a taxable year to a farm savings account of a taxpayer, paragraph (2) shall not apply to distributions from the farm savings accounts of such taxpayer (to the extent such distributions do not exceed the aggregate excess contributions to all such accounts of such taxpayer for such year) if—

''(i) such distribution is received by the taxpayer on or before the last day prescribed by law (including extensions of time) for filing such taxpayer's return for such taxable year, and

''(ii) such distribution is accompanied by the amount of net income attributable to such excess contribution.

Any net income described in clause (ii) shall be included in the gross income of the taxpayer for the taxable year in which it is received.

''(B) EXCESS CONTRIBUTION.—For purposes of subparagraph (A), the term 'excess contribution' means any contribution (other than a rollover contribution) which is not deductible under this section.

''(4) ROLLOVER CONTRIBUTION.—An amount is described in this paragraph as a rollover contribution if it meets the requirements of subparagraphs (A) and (B).

''(A) IN GENERAL.—For purposes of this section, any amount paid or distributed from a farm savings account to the account beneficiary shall be treated as a qualified distribution to the extent the amount received is paid into a farm savings account for the benefit of such beneficiary not later than the 60th day after the day on which the beneficiary receives the payment or distribution.

''(B) LIMITATION.—This paragraph shall not apply to any amount described in subparagraph (A) received by a taxpayer from a farm savings account if, at any time during the 1-year period ending on the day of such receipt, such taxpayer received any other amount described in subparagraph (A) from a farm savings account which was not included in the taxpayer's gross income because of the application of this paragraph.

''(5) TRANSFER OF ACCOUNT INCIDENT TO DIVORCE.—The transfer of an individual's interest in a farm savings account to an individual's spouse or former spouse under a divorce or separation instrument described in subparagraph (A) of section 71(b)(2) shall not be considered a taxable transfer made by such individual notwithstanding any other provision of this subtitle, and such interest shall, after such transfer, be treated as a farm savings account with respect to which such spouse is the account beneficiary.

''(6) TREATMENT AFTER DEATH OF ACCOUNT BENEFICIARY.—

''(A) TREATMENT IF DESIGNATED BENEFICIARY IS SPOUSE.—If the account beneficiary's surviving spouse acquires such beneficiary's interest in a farm savings account by reason of being the designated beneficiary of such account at the death of the account beneficiary, such farm savings account shall be treated as if the spouse were the account beneficiary.

''(B) OTHER CASES.—

''(i) IN GENERAL.—If, by reason of the death of the account beneficiary, any person acquires the account beneficiary's interest in a farm savings account in a case to which subparagraph (A) does not apply—

''(I) such account shall cease to be a farm savings account as of the date of death, and

''(II) an amount equal to the fair market value of the assets in such account on such date shall be included if such person is not the estate of such beneficiary, in such person's gross income for the taxable year which includes such date, or if such person is the estate of such beneficiary, in such beneficiary's gross income for the last taxable year of such beneficiary.

''(ii) DEDUCTION FOR ESTATE TAXES.—An appropriate deduction shall be allowed under section 691(c) to any person (other than the decedent or the decedent's spouse) with respect to amounts included in gross income under clause (i) by such person.

''(i) REPORTS.—The Secretary may require the trustee of a farm savings account to make such reports regarding such account to the Secretary and to the account beneficiary with respect to contributions, distributions, and such other matters as the Secretary determines appropriate. The reports required by this subsection shall be filed at such time and in such manner and furnished to such taxpayers at such time and in such manner as may be required by the Secretary.''.

(b) DEDUCTION ALLOWED WHETHER OR NOT TAXPAYER ITEMIZES OTHER DEDUCTIONS.—Subsection (a) of section 62, as amended by this Act, is amended by inserting after paragraph (22) the following new paragraph:

''(23) FARM SAVINGS ACCOUNTS.—The deduction allowed by section 200.''.

(c) TAX ON EXCESS CONTRIBUTIONS.—Section 4973 (relating to tax on excess contributions to certain tax-favored accounts and annuities) is amended—

(1) by striking ''or'' at the end of subsection (a)(4), by inserting ''or'' at the end of subsection (a)(5), and by inserting after subsection (a)(5) the following new paragraph:

''(6) a farm savings account (within the meaning of section 200(e)),'', and

(2) by adding at the end the following new subsection:

''(h) EXCESS CONTRIBUTIONS TO FARM SAVINGS ACCOUNTS.—For purposes of this section, in the case of farm savings accounts (within the meaning of section 200(e)), the term 'excess contribution' means the sum of—

''(1) the aggregate amount contributed for the taxable year to the accounts (other than rollover contributions described in section 200(h)(4)) which is not allowable as a deduction under section 200 for such year, and

''(2) the amount determined under this subsection for the preceding taxable year, reduced by the sum of—

''(A) the distributions out of the accounts with respect to which additional tax was imposed under section 200(h)(2), and

''(B) the excess (if any) of—

''(i) the maximum amount allowable as a deduction under section 200(c) for the taxable year, over

''(ii) the amount contributed to the accounts for the taxable year.

For purposes of this subsection, any contribution which is distributed out of the farm savings account in a distribution to which section 200(h)(3) applies shall be treated as an amount not contributed.''.

(d) TAX ON PROHIBITED TRANSACTIONS.—

(1) Section 4975(c) (relating to tax on prohibited transactions) is amended by adding at the end the following new paragraph:

''(7) SPECIAL RULE FOR FARM SAVINGS ACCOUNTS.—An taxpayer for whose benefit a farm savings account (within the meaning of section 200(e)) is established shall be exempt from the tax imposed by this section with respect to any transaction concerning such account (which would otherwise be taxable under this section) if, with respect to such transaction, the account ceases to be a farm savings account by reason of the application of section 200(f)(2) to such account.''.

(2) Section 4975(e)(1) of such Code is amended by redesignating subparagraphs (F) and (G) as subparagraphs (G) and (H), respectively, and by inserting after subparagraph (E) the following new subparagraph:

''(F) a farm savings account described in section 200(e),''.

(e) FAILURE TO PROVIDE REPORTS ON FARM SAVINGS ACCOUNTS.—Section 6693(a)(2) (relating to reports) is amended by redesignating subparagraphs (D) and (E) as subparagraphs (E) and (F), respectively, and by inserting after subparagraph (C) the following new subparagraph:

''(D) section 200(i) (relating to farm savings accounts),''.

(f) CLERICAL AMENDMENT.—The table of sections for part VI of subchapter B of chapter 1 is amended by inserting after the item relating to section 199 the following new item:

''Sec. 200. Farm savings accounts.''.

(g) CONFORMING AMENDMENTS TO FEDERAL CROP INSURANCE ACT.—

(1) ESTABLISHMENT OF PILOT PROGRAM; PAYMENT OF PORTION OF PREMIUM BY FEDERAL CROP INSURANCE CORPORATION.—Section 523(e) of the Federal Crop Insurance Act (7 U.S.C. 1523(e)) is amended by adding at the end the following new subsection:

''(f) FARM SAVINGS ACCOUNT PILOT PROGRAM.—

''(1) IN GENERAL.—The Secretary shall establish a pilot program under which the Secretary enters into agreements with producers to receive contributions to farm savings accounts established under section 200 of the Internal Revenue Code of 1986 in lieu of—

''(A) receiving, after the expiration of any transition period applicable to the producer under paragraph (2), any Federal subsidy toward the premium of any crop insurance policy, or

''(B) obtaining noninsured crop disaster assistance under section 196 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7333).

''(2) LIMITATIONS ON ENROLLMENT.—

''(A) IN GENERAL.—The Secretary shall enroll not more than 20,000 producers under the pilot program established under paragraph (1).

''(B) DATE.—The Secretary shall not enroll any producer in the pilot program established under paragraph (1) after September 30, 2012.

''(3) TRANSITION TO FARM SAVINGS ACCOUNTS.—If a producer enters into an agreement under paragraph (1) to forgo any Federal subsidy toward the premium of any crop insurance policy (other than catastrophic risk protection under section 508(b)) in exchange for contributions by the Secretary to a farm savings account of the producer, then, in connection with the purchase of any crop insurance policy (other than catastrophic risk protection under section 508(b)) during the first 3 taxable years for which the Secretary makes contributions under 200(g) of the Internal Revenue Code of 1986 to a farm savings account of the producer, the amount of the premium to be paid by the Corporation under section 508(e) for such insurance policy shall be equal to—

''(A) for the first taxable year, 75 percent of the amount of the premium that would otherwise be paid by the Corporation under section 508(e);

''(B) for the second taxable year, 50 percent of the amount of the premium that would otherwise be paid by the Corporation under section 508(e); and

''(C) for the third taxable year, 25 percent of the amount of the premium that would otherwise be paid by the Corporation under section 508(e).

''(4) CROP INSURANCE COVERAGE.—

''(A) IN GENERAL.—During the transition period applicable to a producer under paragraph (3), the producer would be covered with any claim at the same level of coverage purchased, but subject to the condition that any claim would first use amounts in the farm savings accounts of a producer before conventional crop insurance would make any payment, if necessary.

''(B) CATASTROPHIC COVERAGE.—If a producer with a farm savings account would be covered under catastrophic risk protection under section 508(b) of the Federal Crop Insurance Act or under the noninsured crop assistance program under section 196 of the Federal Agriculture Improvement and Reform Act, such producer shall be covered with respect to such claim under such protection or program, but subject to the condition that any claim would first use amounts in the farm savings accounts of a producer before any payment was made with respect to such claim.''.

(2) FUNDING SOURCE.—Section 516(b) of such Act (7 U.S.C. 1516(b)) is amended by adding at the end the following new paragraph:

''(3) CONTRIBUTIONS TO FARM SAVINGS ACCOUNTS.—The Secretary shall use the insurance fund established under subsection (c) to make required contributions to farm savings accounts established under section 200 of the Internal Revenue Code of 1986 in accordance with section 523(f).''.

(h) CONFORMING AMENDMENT TO AGRICULTURAL MARKET TRANSITION ACT.—Section 196(i) of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7333) is amended by adding at the end the following new paragraph:

''(6) COORDINATION WITH FARM SAVINGS ACCOUNT PILOT PROGRAM.—No person who has entered into an agreement with the Secretary under the farm savings account pilot program under section 523(f) of the Federal Crop Insurance Act shall be eligible to receive any noninsured assistance payment under this section.''.

(i) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after the date of the enactment of this Act.

NOTICES OF HEARINGS

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. BINGAMAN. Mr. President, I would like to announce for the information of the Senate and the public that a hearing has been scheduled before the Senate Committee on Energy and Natural Resources.

The hearing will be held on Thursday, November 15, 2007, at 10 a.m., in room SD–366 of the Dirksen Senate Office Building.

The purpose of the hearing is to receive testimony on S. 2203, a bill to reauthorize the Uranium Enrichment Decontamination and Decommissioning Fund, and for other purposes.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record should send it to the Committee on Energy and Natural Resources, United States Senate, Washington, DC 20510–6150, or by email to Rosemarie_Calabro@energy.senate.gov.

For further information, please contact Jonathan Epstein at (202) 228–3031 or Rosemarie Calabro at (202) 224–5039.

COMMITTEE ON SMALL BUSINESS AND ENTREPRENEURSHIP

Mr. KERRY. Mr. President, I would like to inform Members that the Committee on Small Business and Entrepreneurship will hold a hearing entitled ''SBA Lender Oversight: Preventing Loan Fraud and Improving Regulation of Lenders,'' on Tuesday, November 13, 2007, at 10 a.m., in room 428A of the Russell Senate Office Building.

PERMANENT SUBCOMMITTEE ON INVESTIGATIONS

Mr. LEVIN. Mr. President, I would like to announce for the information of the Senate and the public that the Permanent Subcommittee on Investigations of the Committee on Homeland Security and Governmental Affairs will hold a hearing entitled, ''Speculation In the Crude Oil Market.'' The Permanent Subcommittee on Investigations hearing will examine the role of speculation in recent record crude oil prices. Witnesses for the upcoming hearing will include oil industry and energy market experts. A final witness list will be available Tuesday, November 13, 2007.

The subcommittee hearing is scheduled for Thursday, November 15, 2007, at 2:30 p.m., in room 342 of the Dirksen Senate Office Building. For further information, please contact Elise Bean of the Permanent Subcommittee on Investigations at (202) 224–9505.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. KENNEDY. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet during the session of the Senate on Thursday, November 8, 2007, at 10 a.m., in room 253 of the Russell Senate Office Building, in order to conduct a hearing. This hearing will focus on issues related to media consolidation, pending proposals to change the Federal Communications Commission's media ownership rules, and government efforts to promote localism and diversity in the media marketplace.

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

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. KENNEDY. Mr. President, I ask unanimous consent that the Committee on Environment and Public Works be authorized to meet during the session of the Senate on Thursday, November 8, 2007 at 9:30 a.m. in room 406 of the Dirksen Senate Office Building in order to conduct a hearing entitled, ''Legislative Hearing on America's Climate Security Act of 2007, S. 2191.''

The PRESIDING OFFICER. Without objection it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. KENNEDY. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, November 8, 2007, at 2:30 p.m. in order to hold a hearing on Syria.

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

COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS

Mr. KENNEDY. Mr. President, I ask unanimous consent that the Committee on Health, Education, Labor, and Pensions be authorized to meet during the session of the Senate in order to conduct a hearing entitled ''Protecting the Employment Rights of Those Who Protect the United States'' on Thursday, November 8, 2007 at 10 a.m. in room 430 of the Dirksen Senate Office Building.

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

COMMITTEE ON THE JUDICIARY

Mr. KENNEDY. Mr. President, I ask unanimous consent that the Senate Committee on the Judiciary be authorized to meet during the session of the Senate in order to conduct an Executive Business Meeting on Thursday, November 8, 2007, at 10 a.m. in room 226 of the Dirksen Senate Office Building.

Agenda

I. Bills: S. 352, Sunshine in the Courtroom Act of 2007 (Grassley, Schumer, Leahy, Specter, Graham, Feingold, Cornyn, Durbin); S. 2135, Child Soldiers Accountability Act of 2007 (Durbin, Coburn, Feingold, Brownback); S. 2248, Foreign Intelligence Surveillance Act of 1978 Amendments Act of 2007.

II. Nominations: Michael J. Sullivan to be Director, Bureau of Alcohol, Tobacco, Firearms, and Explosives, Department of Justice; Joseph N. Laplante to be United States District

Judge for the District of New Hampshire; Reed Charles O'Connor to be United States District Judge for the Northern District of Texas, Dallas Division; Thomas D. Schroeder to be United States District Judge for the Middle District of North Carolina; Amul R. Thapar to be United States District Judge for the Eastern District of Kentucky.

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

JOINT ECONOMIC COMMITTEE

Mr. KENNEDY. Mr. President, I ask unanimous consent that the Joint Economic Committee be authorized to meet during the session of the Senate in order to conduct a hearing entitled, ''The Economic Outlook,'' in room 216 of the Hart Senate Office Building, on Thursday, November 8, 2007, from 10:00 a.m. to 12:30 p.m.

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

SUBCOMMITTEE ON NATIONAL PARKS

Mr. KENNEDY. Mr. President, I ask unanimous consent that the Subcommittee on National Parks of the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on Thursday, November 8, 2007, at 2:30 p.m. in room SD–366 of the Dirksen Senate Office Building, in order to conduct a hearing.

The purpose of the hearing is to receive testimony on the following bills: S. 86, to designate segments of Fossil Creek, a tributary to the Verde River in the State of Arizona, as wild and scenic rivers; S. 1365, to amend the Omnibus Parks and Public Lands Management Act of 1996 to authorize the Secretary of the Interior to enter into cooperative agreements with any of the management partners of the Boston Harbor Islands National Recreation Area, and for other purposes; S. 1449, to establish the Rocky Mountain Science Collections Center to assist in preserving the archeological, anthropological, paleontological, zoological, and geological artifacts and archival documentation from the Rocky Mountain region through the construction of an on-site, secure collections facility for the Denver Museum of Nature & Science in Denver, Colorado; S. 1921, to amend the American Battlefield Protection Act of 1996 to extend the authorization for that Act, and for other purposes; S. 1941, to direct the Secretary of the Interior to study the suitability and feasibility of designating the Wolf House located in Norfolk, Arkansas, as a unit of the National Park System, and for other purposes; S. 1961, to expand the boundaries of the Little River Canyon National Preserve in the State of Alabama; S. 1991, to authorize the Secretary of the Interior to conduct a study to determine the suitability and feasibility of extending the Lewis and Clark National Historic Trail to include additional sites associated with the preparation and return phases of the expedition, and for other purposes; S. 2098, to establish the Northern Plains Heritage Area in the State of North Dakota; S. 2220, to amend the Outdoor Recreation Act of 1963 to authorize certain appropriations; and H.R. 1191, to authorize the National Park Service to pay for services rendered by subcontractors under a General Services Administration Indefinite Deliver/Indefinite Quantity Contract issued for work to be completed at the Grand Canyon National Park.

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

PRIVILEGES OF THE FLOOR

Mr. BAUCUS. Mr. President, I ask unanimous consent that Mary Baker, Tom Louthan, Sara Shepherd, Sam Anderson, Travis Cossitt, Siri Smillie, Matt Slonaker, Charles Kovatch, John Carey, Timothy Kehrer, and Mollie Lane be granted the privilege of the floor for the duration of the debate on the farm bill.

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

Mr. HARKIN. Mr. President, I ask unanimous consent that Dave White, a detailee from USDA to the Committee on Agriculture, and Alexandra Torres, an intern for the committee, be granted the privilege of the floor for any debate and votes on H.R. 2419.

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

Mr. KENNEDY. Mr. President, I ask unanimous consent that Gilberto DeJesus, a detailee in the office of Senator CARDIN, be granted floor privileges during the debate and vote on the pending nomination.

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

DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 2008

On Wednesday, November 7, 2007, the Senate amended H.R. 3043, as follows:

Strike out all after the enacting clause and insert:

SECTION 1. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

Sec. 1. Table of contents.
Sec. 2. Statement of Appropriations.
LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION, AND RELATED AGENCIES APPROPRIATIONS, 2008
Title I—Department of Labor
Title II—Department of Health and Human Services
Title III—Department of Education
Title IV—Related Agencies
Title V—General Provisions

SEC. 2. STATEMENT OF APPROPRIATIONS.

The following sums in this Act are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 2008.

TITLE I

DEPARTMENT OF LABOR

EMPLOYMENT AND TRAINING ADMINISTRATION

TRAINING AND EMPLOYMENT SERVICES

(INCLUDING RESCISSIONS)

For necessary expenses of the Workforce Investment Act of 1998 (''WIA''), the Denali Commission Act of 1998, and the Women in Apprenticeship and Non-Traditional Occupations Act of 1992, including the purchase and hire of passenger motor vehicles, the construction, alteration, and repair of buildings and other facilities, and the purchase of real property for training centers as authorized by the WIA; $3,618,940,000, plus reimbursements, is available. Of the amounts provided:

(1) for grants to States for adult employment and training activities, youth activities, and dislocated worker employment and training activities, $2,994,510,000 as follows:

(A) $864,199,000 for adult employment and training activities, of which $152,199,000 shall be available for the period July 1, 2008 to June 30, 2009, and of which $712,000,000 shall be available for the period October 1, 2008 through June 30, 2009;

(B) $940,500,000 for youth activities, which shall be available for the period April 1, 2008 through June 30, 2009; and

(C) $1,189,811,000 for dislocated worker employment and training activities, of which $341,811,000 shall be available for the period July 1, 2008 through June 30, 2009, and of which $848,000,000 shall be available for the period October 1, 2008 through June 30, 2009:

Provided, That notwithstanding the transfer limitation under section 133(b)(4) of the WIA, up to 30 percent of such funds may be transferred by a local board if approved by the Governor;

(2) for federally administered programs, $483,371,000 as follows:

(A) $282,092,000 for the dislocated workers assistance national reserve, of which $6,300,000 shall be available on October 1, 2007, of which $63,792,000 shall be available for the period July 1, 2008 through June 30, 2009, and of which $212,000,000 shall be available for the period October 1, 2008 through June 30, 2009: Provided, That up to $125,000,000 may be made available for Community-Based Job Training grants from funds reserved under section 132(a)(2)(A) of the WIA and shall be used to carry out such grants under section 171(d) of such Act, except that the 10 percent limitation otherwise applicable to the amount of funds that may be used to carry out section 171(d) shall not be applicable to funds used for Community-Based Job Training grants: Provided further, That funds provided to carry out section 132(a)(2)(A) of the WIA may be used to provide assistance to a State for State-wide or local use in order to address cases where there have been worker dislocations across multiple sectors or across multiple local areas and such workers remain dislocated; coordinate the State workforce development plan with emerging economic development needs; and train such eligible dislocated workers: Provided further, That funds provided to carry out section 171(d) of the WIA may be used for demonstration projects that provide assistance to new entrants in the workforce and incumbent workers: Provided further, That $2,600,000 shall be for a noncompetitive grant to the National Center on Education and the Economy, which shall be awarded not later than 30 days after the date of enactment of this Act: Provided further, That $1,500,000 shall be for a non-competitive grant to the AFL–CIO Working for America Institute, which shall be awarded not later than 30 days after the date of enactment of this Act: Provided further, That $2,200,000 shall be for a non-competitive grant to the AFL–CIO Appalachian Council, Incorporated, for Job Corps career transition services, which shall be awarded not later than 30 days after the date of enactment of this Act;

(B) $55,039,000 for Native American programs, which shall be available for the period July 1, 2008 through June 30, 2009;

(C) $82,740,000 for migrant and seasonal farmworker programs under section 167 of the WIA, including $77,265,000 for formula grants (of which not less that 70 percent shall be for employment and training services), $4,975,000 for migrant and seasonal housing (of which not less than 70 percent shall be for permanent housing), and $500,000 for other discretionary purposes, which shall be available for the period July 1, 2008 through June 30, 2009: Provided, That, notwithstanding any other provision of law or related regulation, the Department shall take no action limiting the number or proportion of eligible participants receiving related assistance services or discouraging grantees from providing such services;

(D) $1,000,000 for carrying out the Women in Apprenticeship and Nontraditional Occupations Act, which shall be available for the period July 1, 2008 through June 30, 2009; and

(E) $62,500,000 for YouthBuild activities as described in section 173A of the WIA, which shall be available for the period April 1, 2008 through June 30, 2009;

(3) for national activities, $141,059,000, which shall be available for the period July 1, 2008 through July 30, 2009 as follows:

(A) $50,569,000 for Pilots, Demonstrations, and Research, of which $5,000,000 shall be for grants to address the employment and training needs of young parents (notwithstanding the requirements of sections 171(b)(2)(B) or 171(c)(4)(D) of the WIA): Provided, That funding provided to carry out projects under section 171 of the WIA that are identified in the statement of the managers on the conference report accompanying this Act, shall not be subject to the requirements of section 171(b)(2)(B) and 171(c)(4)(D) of the WIA, the joint funding requirements of sections 171(b)(2)(A) and 171(c)(4)(A) of the WIA, or any time limit requirements of sections 171(b)(2)(C) and 171(c)(4)(B) of the WIA;

(B) $78,694,000 for ex-offender activities, under the authority of section 171 of the Act, notwithstanding the requirements of sections 171(b)(2)(B) or 171(c)(4)(D), of which not less than $59,000,000 shall be for youthful offender activities: Provided, That $50,000,000 shall be available from program year 2007 and program year 2008 funds for competitive grants to local educational agencies or community-based organizations to develop and implement mentoring strategies that integrate educational and employment interventions designed to prevent youth violence in schools identified as persistently dangerous under section 9532 of the Elementary and Secondary Education Act;

(C) $4,921,000 for Evaluation under section 172 of the WIA; and

(D) $6,875,000 for the Denali Commission, which shall be available for the period July 1, 2008 through June 30, 2009.

Of the amounts made available under this heading in Public Law 107–116 to carry out the activities of the National Skills Standards Board, $44,000 are rescinded.

Of the unexpended balances remaining from funds appropriated to the Department of Labor under this heading for fiscal years 2005 and 2006 to carry out the Youth, Adult and Dislocated Worker formula programs under the Workforce Investment Act, $245,000,000 are rescinded: Provided, That the Secretary of Labor may, upon the request of a State, apply any portion of the State's share of this rescission to funds otherwise available to the State for such programs during program year 2007: Provided further, That notwithstanding any provision of such Act, the Secretary may waive such requirements as may be necessary to carry out the instructions relating to this rescission in the statement of the managers on the conference report accompanying this Act.

COMMUNITY SERVICE EMPLOYMENT FOR OLDER AMERICANS

To carry out title V of the Older Americans Act of 1965, $530,900,000, which shall be available for the period July 1, 2008 through June 30, 2009.

FEDERAL UNEMPLOYMENT BENEFITS AND ALLOWANCES

For payments during fiscal year 2008 of trade adjustment benefit payments and allowances under part I of subchapter B of chapter 2 of title II of the Trade Act of 1974, and section 246 of that Act; and for training, allowances for job search and relocation, and related State administrative expenses under Part II of subchapter B of chapter 2 of title II of the Trade Act of 1974, $888,700,000, together with such amounts as may be necessary to be charged to the subsequent appropriation for payments for any period subsequent to September 15, 2008.

STATE UNEMPLOYMENT INSURANCE AND EMPLOYMENT SERVICE OPERATIONS

For authorized administrative expenses, $90,517,000, together with not to exceed $3,337,506,000 which may be expended from the Employment Security Administration Account in the Unemployment Trust Fund (''the Trust Fund''), of which:

(1) $2,510,723,000 from the Trust Fund is for grants to States for the administration of State unemployment insurance laws as authorized under title III of the Social Security Act (including $10,000,000 to conduct in-person reemployment and eligibility assessments in one-stop career centers of claimants of unemployment insurance), the administration of unemployment insurance for Federal employees and for ex-service members as authorized under sections 8501–8523 of title 5, United States Code, and the administration of trade readjustment allowances and alternative trade adjustment assistance under the Trade Act of 1974, and shall be available for obligation by the States through December 31, 2008, except that funds used for automation acquisitions shall be available for obligation by the States through September 30, 2010, and funds used for unemployment insurance workloads experienced by the States through September 30, 2008 shall be available for Federal obligation through December 31, 2008;

(2) $10,500,000 from the Trust Fund is for national activities necessary to support the administration of the Federal-State unemployment insurance system;

(3) $693,000,000 from the Trust Fund, together with $22,883,000 from the General Fund of the Treasury, is for grants to States in accordance with section 6 of the Wagner-Peyser Act, and shall be available for Federal obligation for the period July 1, 2008 through June 30, 2009;

(4) $32,766,000 from the Trust Fund is for national activities of the Employment Service, including administration of the work opportunity tax credit under section 51 of the Internal Revenue Code of 1986, the administration of activities, including foreign labor certifications, under the Immigration and Nationality Act, and the provision of technical assistance and staff training under the Wagner-Peyser Act, including not to exceed $1,228,000 that may be used for amortization payments to States which had independent retirement plans in their State employment service agencies prior to 1980;

(5) $52,985,000 from the General Fund is to provide workforce information, national electronic tools, and one-stop system building under the Wagner-Peyser Act and shall be available for Federal obligation for the period July 1, 2008 through June 30, 2009; and

(6) $14,649,000 from the General Fund is to provide for work incentive grants to the States and shall be available for the period July 1, 2008 through June 30, 2009:

Provided, That to the extent that the Average Weekly Insured Unemployment (''AWIU'') for fiscal year 2008 is projected by the Department of Labor to exceed 2,786,000, an additional $28,600,000 from the Trust Fund shall be available for obligation for every 100,000 increase in the AWIU level (including a pro rata amount for any increment less than 100,000) to carry out title III of the Social Security Act: Provided further, That funds appropriated in this Act that are allotted to a State to carry out activities under title III of the Social Security Act may be used by such State to assist other States in carrying out activities under such title III if the other States include areas that have suffered a major disaster declared by the President under the Robert T. Stafford Disaster Relief and Emergency Assistance Act: Provided further, That the Secretary of Labor may use funds appropriated for grants to States under title III of the Social Security Act to make payments on behalf of States for the use of the National Directory of New Hires under section 453(j)(8) of such Act: Provided further, That funds appropriated in this Act which are used to establish a national one-stop career center system, or which are used to support the national activities of the Federal-State unemployment insurance or immigration programs, may be obligated in contracts, grants, or agreements with non-State entities: Provided further, That funds appropriated under this Act for activities authorized under title III of the Social Security Act and the Wagner-Peyser Act may be used by States to fund integrated Unemployment Insurance and Employment Service automation efforts, notwithstanding cost allocation principles prescribed under the Office of Management and Budget Circular A–87.

In addition, $40,000,000 from the Employment Security Administration Account of the Unemployment Trust Fund shall be available to conduct in-person reemployment and eligibility assessments in one-stop career centers of claimants of unemployment insurance: Provided, That not later than 180 days following the end of the current fiscal year, the Secretary shall submit an interim report to the Congress that includes available information on expenditures, number of individuals assessed, and outcomes from the assessments: Provided further, That not later than 18 months following the end of the fiscal year, the Secretary of Labor shall submit to the Congress a final report containing comprehensive information on the estimated savings that result from the assessments of claimants and identification of best practices.

ADVANCES TO THE UNEMPLOYMENT TRUST FUND AND OTHER FUNDS

For repayable advances to the Unemployment Trust Fund as authorized by sections 905(d) and 1203 of the Social Security Act, and to the Black Lung Disability Trust Fund as authorized by section 9501(c)(1) of the Internal Revenue Code of 1954; and for nonrepayable advances to the Unemployment Trust Fund as authorized by section 8509 of title 5, United States Code, and to the ''Federal unemployment benefits and allowances'' account, to remain available until September 30, 2009, $437,000,000.

In addition, for making repayable advances to the Black Lung Disability Trust Fund in the current fiscal year after September 15, 2008, for costs incurred by the Black Lung Disability Trust Fund in the current fiscal year, such sums as may be necessary.

PROGRAM ADMINISTRATION

For expenses of administering employment and training programs, $88,451,000, together with not to exceed $88,211,000, which may be expended from the Employment Security Administration Account in the Unemployment Trust Fund.

EMPLOYEE BENEFITS SECURITY ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses for the Employee Benefits Security Administration, $142,925,000.

PENSION BENEFIT GUARANTY CORPORATION

PENSION BENEFIT GUARANTY CORPORATION FUND

The Pension Benefit Guaranty Corporation is authorized to make such expenditures, including financial assistance authorized by subtitle E of title IV of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 4201 et seq.), within limits of funds and borrowing authority

available to such Corporation, and in accord with law, and to make such contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Government Corporation Control Act (31 U.S.C. 9104), as may be necessary in carrying out the program, including associated administrative expenses, through September 30, 2008, for such Corporation: Provided, That none of the funds available to the Corporation for fiscal year 2008 shall be available for obligations for administrative expenses in excess of $411,151,000: Provided further, That to the extent that the number of new plan participants in plans terminated by the Corporation exceeds 100,000 in fiscal year 2008, an amount not to exceed an additional $9,200,000 shall be available for obligation for administrative expenses for every 20,000 additional terminated participants: Provided further, That an additional $50,000 shall be made available for obligation for investment management fees for every $25,000,000 in assets received by the Corporation as a result of new plan terminations, after approval by the Office of Management and Budget and notification of the Committees on Appropriations of the House of Representatives and the Senate.

EMPLOYMENT STANDARDS ADMINISTRATION

SALARIES AND EXPENSES

(INCLUDING RESCISSION)

For necessary expenses for the Employment Standards Administration, including reimbursement to State, Federal, and local agencies and their employees for inspection services rendered, $435,397,000, together with $2,111,000 which may be expended from the Special Fund in accordance with sections 39(c), 44(d), and 44(j) of the Longshore and Harbor Workers' Compensation Act: Provided, That the Secretary of Labor is authorized to establish and, in accordance with 31 U.S.C. 3302, collect and deposit in the Treasury fees for processing applications and issuing certificates under sections 11(d) and 14 of the Fair Labor Standards Act of 1938 and for processing applications and issuing registrations under title I of the Migrant and Seasonal Agricultural Worker Protection Act.

Of the unobligated funds collected pursuant to section 286(v) of the Immigration and Nationality Act, $102,000,000 are rescinded.

SPECIAL BENEFITS

(INCLUDING TRANSFER OF FUNDS)

For the payment of compensation, benefits, and expenses (except administrative expenses) accruing during the current or any prior fiscal year authorized by chapter 81 of title 5, United States Code; continuation of benefits as provided for under the heading ''Civilian War Benefits'' in the Federal Security Agency Appropriation Act, 1947; the Employees' Compensation Commission Appropriation Act, 1944; sections 4(c) and 5(f) of the War Claims Act of 1948; and 50 percent of the additional compensation and benefits required by section 10(h) of the Longshore and Harbor Workers' Compensation Act, $203,000,000, together with such amounts as may be necessary to be charged to the subsequent year appropriation for the payment of compensation and other benefits for any period subsequent to August 15 of the current year: Provided, That amounts appropriated may be used under section 8104 of title 5, United States Code, by the Secretary of Labor to reimburse an employer, who is not the employer at the time of injury, for portions of the salary of a reemployed, disabled beneficiary: Provided further, That balances of reimbursements unobligated on September 30, 2007, shall remain available until expended for the payment of compensation, benefits, and expenses: Provided further, That in addition there shall be transferred to this appropriation from the Postal Service and from any other corporation or instrumentality required under section 8147(c) of title 5, United States Code, to pay an amount for its fair share of the cost of administration, such sums as the Secretary determines to be the cost of administration for employees of such fair share entities through September 30, 2008: Provided further, That of those funds transferred to this account from the fair share entities to pay the cost of administration of the Federal Employees' Compensation Act, $52,280,000 shall be made available to the Secretary as follows:

(1) For enhancement and maintenance of automated data processing systems and telecommunications systems, $21,855,000.

(2) For automated workload processing operations, including document imaging, centralized mail intake and medical bill processing, $16,109,000.

(3) For periodic roll management and medical review, $14,316,000.

(4) The remaining funds shall be paid into the Treasury as miscellaneous receipts:

Provided further, That the Secretary may require that any person filing a notice of injury or a claim for benefits under chapter 81 of title 5, United States Code, or the Longshore and Harbor Workers' Compensation Act, provide as part of such notice and claim, such identifying information (including Social Security account number) as such regulations may prescribe.

SPECIAL BENEFITS FOR DISABLED COAL MINERS

For carrying out title IV of the Federal Mine Safety and Health Act of 1977, as amended by Public Law 107–275, $208,221,000, to remain available until expended.

For making after July 31 of the current fiscal year, benefit payments to individuals under title IV of such Act, for costs incurred in the current fiscal year, such amounts as may be necessary.

For making benefit payments under title IV for the first quarter of fiscal year 2009, $62,000,000, to remain available until expended.

ADMINISTRATIVE EXPENSES, ENERGY EMPLOYEES OCCUPATIONAL ILLNESS COMPENSATION FUND

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses to administer the Energy Employees Occupational Illness Compensation Program Act, $104,745,000, to remain available until expended: Provided, That the Secretary of Labor is authorized to transfer to any executive agency with authority under the Energy Employees Occupational Illness Compensation Program Act, including within the Department of Labor, such sums as may be necessary in fiscal year 2008 to carry out those authorities: Provided further, That the Secretary may require that any person filing a claim for benefits under the Act provide as part of such claim, such identifying information (including Social Security account number) as may be prescribed: Provided further, That not later than 30 days after enactment of this Act, in addition to other sums transferred by the Secretary to the National Institute for Occupational Safety and Health (''NIOSH'') for the administration of the Energy Employees Occupational Illness Compensation Program (''EEOICP''), the Secretary shall transfer $4,500,000 to NIOSH from the funds appropriated to the Energy Employees Occupational Illness Compensation Fund, for use by or in support of the Advisory Board on Radiation and Worker Health (''the Board'') to carry out its statutory responsibilities under the EEOICP, including obtaining audits, technical assistance and other support from the Board's audit contractor with regard to radiation dose estimation and reconstruction efforts, site profiles, procedures, and review of Special Exposure Cohort petitions and evaluation reports.

BLACK LUNG DISABILITY TRUST FUND

(INCLUDING TRANSFER OF FUNDS)

In fiscal year 2008 and thereafter, such sums as may be necessary from the Black Lung Disability Trust Fund, to remain available until expended, for payment of all benefits authorized by section 9501(d)(1), (2), (4), and (7) of the Internal Revenue Code of 1954; and interest on advances, as authorized by section 9501(c)(2) of that Act. In addition, the following amounts shall be available from the Fund for fiscal year 2008 for expenses of operation and administration of the Black Lung Benefits program, as authorized by section 9501(d)(5): not to exceed $32,761,000 for transfer to the Employment Standards Administration ''Salaries and Expenses''; not to exceed $24,785,000 for transfer to Departmental Management, ''Salaries and Expenses''; not to exceed $335,000 for transfer to Departmental Management, ''Office of Inspector General''; and not to exceed $356,000 for payments into miscellaneous receipts for the expenses of the Department of the Treasury.

OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses for the Occupational Safety and Health Administration, $500,568,000, including not to exceed $91,093,000 which shall be the maximum amount available for grants to States under section 23(g) of the Occupational Safety and Health Act (the ''Act''), which grants shall be no less than 50 percent of the costs of State occupational safety and health programs required to be incurred under plans approved by the Secretary of Labor under section 18 of the Act; and, in addition, notwithstanding 31 U.S.C. 3302, the Occupational Safety and Health Administration may retain up to $750,000 per fiscal year of training institute course tuition fees, otherwise authorized by law to be collected, and may utilize such sums for occupational safety and health training and education grants: Provided, That, notwithstanding 31 U.S.C. 3302, the Secretary is authorized, during the fiscal year ending September 30, 2008, to collect and retain fees for services provided to Nationally Recognized Testing Laboratories, and may utilize such sums, in accordance with the provisions of 29 U.S.C. 9a, to administer national and international laboratory recognition programs that ensure the safety of equipment and products used by workers in the workplace: Provided further, That none of the funds appropriated under this paragraph shall be obligated or expended to prescribe, issue, administer, or enforce any standard, rule, regulation, or order under the Act which is applicable to any person who is engaged in a farming operation which does not maintain a temporary labor camp and employs 10 or fewer employees: Provided further, That no funds appropriated under this paragraph shall be obligated or expended to administer or enforce any standard, rule, regulation, or order under the Act with respect to any employer of 10 or fewer employees who is included within a category having a Days Away, Restricted, or Transferred (DART) occupational injury and illness rate, at the most precise industrial classification code for which such data are published, less than the national average rate as such rates are most recently published by the Secretary, acting through the Bureau of Labor Statistics, in accordance with section 24 of the Act, except—

(1) to provide, as authorized by the Act, consultation, technical assistance, educational and training services, and to conduct surveys and studies;

(2) to conduct an inspection or investigation in response to an employee complaint, to issue a citation for violations found during such inspection, and to assess a penalty for violations which are not corrected within a reasonable abatement period and for any willful violations found;

(3) to take any action authorized by the Act with respect to imminent dangers;

(4) to take any action authorized by the Act with respect to health hazards;

(5) to take any action authorized by the Act with respect to a report of an employment accident which is fatal to one or more employees or which results in hospitalization of two or more employees, and to take any action pursuant to such investigation authorized by the Act; and

(6) to take any action authorized by the Act with respect to complaints of discrimination

against employees for exercising rights under the Act:

Provided further, That the foregoing proviso shall not apply to any person who is engaged in a farming operation which does not maintain a temporary labor camp and employs 10 or fewer employees: Provided further, That $10,116,000 shall be available for Susan Harwood training grants, of which $3,200,000 shall be used for the Institutional Competency Building training grants which commenced in September 2000, for program activities for the period of October 1, 2007 to September 30, 2008, provided that a grantee has demonstrated satisfactory performance: Provided further, That such grants shall be awarded not later than 30 days after the date of enactment of this Act: Provided further, That the Secretary shall provide a report to the Committees on Appropriations of the House of Representatives and the Senate with timetables for the development and issuance of occupational safety and health standards on beryllium, silica, cranes and derricks, confined space entry in construction, and hazard communication global harmonization; such timetables shall include actual or estimated dates for: the publication of an advance notice of proposed rulemaking, the commencement and completion of a Small Business Regulatory Enforcement Fairness Act review (if required), the completion of any peer review (if required), the submission of the draft proposed rule to the Office of Management and Budget for review under Executive Order No. 12866 (if required), the publication of a proposed rule, the conduct of public hearings, the submission of a draft final rule to the Office and Management and Budget for review under Executive Order No. 12866 (if required), and the issuance of a final rule; and such report shall be submitted to the Committees on Appropriations of the House of Representatives and the Senate within 90 days of the enactment of this Act, with updates provided every 90 days thereafter that shall include an explanation of the reasons for any delays in meeting the projected timetables for action.

MINE SAFETY AND HEALTH ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses for the Mine Safety and Health Administration, $339,893,000, including purchase and bestowal of certificates and trophies in connection with mine rescue and first-aid work, and the hire of passenger motor vehicles, including up to $2,000,000 for mine rescue and recovery activities, $2,200,000 for an award to the United Mine Workers of America, for classroom and simulated rescue training for mine rescue teams, and $1,215,000 for an award to the Wheeling Jesuit University, for the National Technology Transfer Center for a coal slurry impoundment project; in addition, not to exceed $750,000 may be collected by the National Mine Health and Safety Academy for room, board, tuition, and the sale of training materials, otherwise authorized by law to be collected, to be available for mine safety and health education and training activities, notwithstanding 31 U.S.C. 3302; and, in addition, the Mine Safety and Health Administration may retain up to $1,000,000 from fees collected for the approval and certification of equipment, materials, and explosives for use in mines, and may utilize such sums for such activities; the Secretary of Labor is authorized to accept lands, buildings, equipment, and other contributions from public and private sources and to prosecute projects in cooperation with other agencies, Federal, State, or private; the Mine Safety and Health Administration is authorized to promote health and safety education and training in the mining community through cooperative programs with States, industry, and safety associations; the Secretary is authorized to recognize the Joseph A. Holmes Safety Association as a principal safety association and, notwithstanding any other provision of law, may provide funds and, with or without reimbursement, personnel, including service of Mine Safety and Health Administration officials as officers in local chapters or in the national organization; and any funds available to the Department may be used, with the approval of the Secretary, to provide for the costs of mine rescue and survival operations in the event of a major disaster.

BUREAU OF LABOR STATISTICS

SALARIES AND EXPENSES

For necessary expenses for the Bureau of Labor Statistics, including advances or reimbursements to State, Federal, and local agencies and their employees for services rendered, $488,804,000, together with not to exceed $78,000,000, which may be expended from the Employment Security Administration Account in the Unemployment Trust Fund, of which $5,000,000 may be used to fund the mass layoff statistics program under section 15 of the Wagner-Peyser Act: Provided, That the Current Employment Survey shall maintain the content of the survey issued prior to June 2005 with respect to the collection of data for the women worker series.

OFFICE OF DISABILITY EMPLOYMENT POLICY

SALARIES AND EXPENSES

For necessary expenses for the Office of Disability Employment Policy to provide leadership, develop policy and initiatives, and award grants furthering the objective of eliminating barriers to the training and employment of people with disabilities, $27,712,000.

DEPARTMENTAL MANAGEMENT

SALARIES AND EXPENSES

For necessary expenses for Departmental Management, including the hire of three sedans, and including the management or operation, through contracts, grants or other arrangements of Departmental activities conducted by or through the Bureau of International Labor Affairs, including bilateral and multilateral technical assistance and other international labor activities, $304,856,000, of which $82,516,000 is for the Bureau of International Labor Affairs (including $5,000,000 to implement model programs to address worker rights issues through technical assistance in countries with which the United States has trade preference programs), and of which $20,000,000 is for the acquisition of Departmental information technology, architecture, infrastructure, equipment, software and related needs, which will be allocated by the Department's Chief Information Officer in accordance with the Department's capital investment management process to assure a sound investment strategy; together with not to exceed $318,000, which may be expended from the Employment Security Administration Account in the Unemployment Trust Fund.

OFFICE OF JOB CORPS

To carry out subtitle C of title I of the Workforce Investment Act of 1998, including Federal administrative expenses, the purchase and hire of passenger motor vehicles, the construction, alteration and repairs of buildings and other facilities, and the purchase of real property for training centers as authorized by the Workforce Investment Act; $1,650,516,000, plus reimbursements, as follows:

(1) $1,507,684,000 for Job Corps Operations, of which $916,684,000 is available for obligation for the period July 1, 2008 through June 30, 2009 and of which $591,000,000 is available for obligation for the period October 1, 2008 through June 30, 2009;

(2) $113,960,000 for construction, rehabilitation and acquisition of Job Corps Centers, of which $13,960,000 is available for the period July 1, 2008 through June 30, 2011 and $100,000,000 is available for the period October 1, 2008 through June 30, 2011; and

(3) $28,872,000 for necessary expenses of the Office of Job Corps is available for obligation for the period October 1, 2007 through September 30, 2008:

Provided, That the Office of Job Corps shall have contracting authority: Provided further, That no funds from any other appropriation shall be used to provide meal services at or for Job Corps centers: Provided further, That none of the funds made available in this Act shall be used to reduce Job Corps total student training slots below 44,791 in program year 2008.

VETERANS EMPLOYMENT AND TRAINING

Not to exceed $197,143,000 may be derived from the Employment Security Administration Account in the Unemployment Trust Fund to carry out the provisions of sections 4100–4113, 4211–4215, and 4321–4327 of title 38, United States Code, and Public Law 103–353, and which shall be available for obligation by the States through December 31, 2008, of which $1,967,000 is for the National Veterans' Employment and Training Services Institute. To carry out the Homeless Veterans Reintegration Programs under section 5(a)(1) of the Homeless Veterans Comprehensive Assistance Act of 2001 and the Veterans Workforce Investment Programs under section 168 of the Workforce Investment Act, $31,055,000, of which $7,435,000 shall be available for obligation for the period July 1, 2008, through June 30, 2009.

OFFICE OF INSPECTOR GENERAL

For salaries and expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, $72,929,000, together with not to exceed $5,729,000, which may be expended from the Employment Security Administration Account in the Unemployment Trust Fund.

GENERAL PROVISIONS

SEC. 101. None of the funds appropriated in this Act for the Job Corps shall be used to pay the salary of an individual, either as direct costs or any proration as an indirect cost, at a rate in excess of Executive Level I.

(TRANSFER OF FUNDS)

SEC. 102. Not to exceed 1 percent of any discretionary funds (pursuant to the Balanced Budget and Emergency Deficit Control Act of 1985) which are appropriated for the current fiscal year for the Department of Labor in this Act may be transferred between a program, project, or activity, but no such program, project, or activity shall be increased by more than 3 percent by any such transfer: Provided, That the transfer authority granted by this section shall be available only to meet emergency needs and shall not be used to create any new program or to fund any project or activity for which no funds are provided in this Act: Provided further, That the Committees on Appropriations of the House of Representatives and the Senate are notified at least 15 days in advance of any transfer.

SEC. 103. In accordance with Executive Order No. 13126, none of the funds appropriated or otherwise made available pursuant to this Act shall be obligated or expended for the procurement of goods mined, produced, manufactured, or harvested or services rendered, whole or in part, by forced or indentured child labor in industries and host countries already identified by the United States Department of Labor prior to enactment of this Act.

SEC. 104. After September 30, 2007, the Secretary of Labor shall issue a monthly transit subsidy of not less than the full amount (of not less than $110) that each of its employees of the National Capital Region is eligible to receive.

SEC. 105. None of the funds appropriated in this title for grants under section 171 of the Workforce Investment Act of 1998 may be obligated prior to the preparation and submission of a report by the Secretary of Labor to the Committees on Appropriations of the House of Representatives and the Senate detailing the planned uses of such funds.

SEC. 106. There is authorized to be appropriated such sums as may be necessary to the Denali Commission through the Department of Labor to conduct job training of the local workforce where Denali Commission projects will be constructed.

SEC. 107. None of the funds made available to the Department of Labor for grants under section 414(c) of the American Competitiveness and Workforce Improvement Act of 1998 may be used for any purpose other than training in the occupations and industries for which employers are using H–1B visas to hire foreign workers, and the related activities necessary to support such training: Provided, That the preceding limitation shall not apply to grants awarded under section 107 of this title and to multi-year grants awarded in response to competitive solicitations issued prior to April 15, 2007.

SEC. 108. None of the funds available in this Act or available to the Secretary of Labor from other sources for Community-Based Job Training grants and grants authorized under section 414(c) of the American Competitiveness and Workforce Improvement Act of 1998 shall be obligated for a grant awarded on a non-competitive basis.

SEC. 109. The Secretary of Labor shall take no action to amend, through regulatory or administration action, the definition established in 20 CFR 667.220 for functions and activities under title I of the Workforce Investment Act of 1998, or to modify, through regulatory or administrative action, the procedure for redesignation of local areas as specified in subtitle B of title I of that Act (including applying the standards specified in section 116(a)(3)(B) of that Act, but notwithstanding the time limits specified in section 116(a)(3)(B) of that Act), until such time as legislation reauthorizing the Act is enacted. Nothing in the preceding sentence shall permit or require the Secretary of Labor to withdraw approval for such redesignation from a State that received the approval not later than October 12, 2005, or to revise action taken or modify the redesignation procedure being used by the Secretary in order to complete such redesignation for a State that initiated the process of such redesignation by submitting any request for such redesignation not later than October 26, 2005.

SEC. 110. None of the funds made available in this or any other Act shall be available to finalize or implement any proposed regulation under the Workforce Investment Act of 1998, Wagner-Peyser Act of 1933, or the Trade Adjustment Assistance Reform Act of 2002 until such time as legislation reauthorizing the Workforce Investment Act of 1998 and the Trade Adjustment Assistance Reform Act of 2002 is enacted.

SEC. 111. (a) On or before November 30, 2007, the Secretary of Labor shall, pursuant to section 6 of the Occupational Safety and Health Act of 1970, promulgate a final occupational safety and health standard concerning employer payment for personal protective equipment. The final standard shall provide no less protection to employees and shall have no further exceptions from the employer payment requirement than the proposed rule published in the Federal Register on March 31, 1999 (64 Fed. Reg. 15402).

(b) In the event that such standard is not promulgated by the date required, the proposed standard on employer payment for personal protective equipment published in the Federal Register on March 31, 1999 (64 Fed. Reg. 15402) shall become effective as if such standard had been promulgated as a final standard by the Secretary of Labor.

SEC. 112. None of the funds available in this Act may be used to carry out a public-private competition or direct conversion under Office of Management and Budget Circular A–76 or any successor administrative regulation, directive or policy until 60 days after the Government Accountability Office provides a report to the Committees on Appropriations of the House of Representatives and the Senate on the use of competitive sourcing at the Department of Labor.

SEC. 113. (a) Not later than June 20, 2008, the Secretary of Labor shall propose regulations pursuant to section 303(y) of the Federal Mine Safety and Health Act of 1977, consistent with the recommendations of the Technical Study Panel established pursuant to section 11 of the Mine Improvement and New Emergency Response (MINER) Act (Public Law 109–236), to require that in any coal mine, regardless of the date on which it was opened, belt haulage entries not be used to ventilate active working places without prior approval from the Assistant Secretary. Further, a mine ventilation plan incorporating the use of air coursed through belt haulage entries to ventilate active working places shall not be approved until the Assistant Secretary has reviewed the elements of the plan related to the use of belt air and determined that the plan at all times affords at least the same measure of protection where belt haulage entries are not used to ventilate working places. The Secretary shall finalize the regulations not later than December 31, 2008.

(b) Not later than June 15, 2008, the Secretary of Labor shall propose regulations pursuant to section 315 of the Federal Coal Mine Health and Safety Act of 1969, consistent with the recommendations of the National Institute for Occupational Safety and Health pursuant to section 13 of the MINER Act (Public Law 109–236), requiring rescue chambers, or facilities that afford at least the same measure of protection, in underground coal mines. The Secretary shall finalize the regulations not later than December 31, 2008.

SEC. 114. None of the funds appropriated in this Act under the heading ''Employment and Training Administration'' shall be used by a recipient or subrecipient of such funds to pay the salary and bonuses of an individual, either as direct costs or indirect costs, at a rate in excess of Executive Level II. This limitation shall not apply to vendors providing goods and services as defined in OMB Circular A–133. Where States are recipients of such funds, States may establish a lower limit for salaries and bonuses of those receiving salaries and bonuses from subrecipients of such funds, taking into account factors including the relative cost-of-living in the State, the compensation levels for comparable State or local government employees, and the size of the organizations that administer Federal programs involved including Employment and Training Administration programs.

This title may be cited as the ''Department of Labor Appropriations Act, 2008''.

TITLE II

DEPARTMENT OF HEALTH AND HUMAN SERVICES

HEALTH RESOURCES AND SERVICES ADMINISTRATION

HEALTH RESOURCES AND SERVICES

For carrying out titles II, III, IV, VII, VIII, X, XII, XIX, and XXVI of the Public Health Service Act, section 427(a) of the Federal Coal Mine Health and Safety Act, title V and sections 1128E, and 711, and 1820 of the Social Security Act, the Health Care Quality Improvement Act of 1986, the Native Hawaiian Health Care Act of 1988, the Cardiac Arrest Survival Act of 2000, and section 712 of the American Jobs Creation Act of 2004, $7,235,468,000, of which $317,684,000 shall be available for construction and renovation (including equipment) of health care and other facilities and other health-related activities as specified in the statement of the managers on the conference report accompanying this Act, and of which $38,538,000 from general revenues, notwithstanding section 1820(j) of the Social Security Act, shall be available for carrying out the Medicare rural hospital flexibility grants program under such section: Provided, That of the funds made available under this heading, $160,000 shall be available until expended for facilities renovations at the Gillis W. Long Hansen's Disease Center: Provided further, That $40,000,000 of the funding provided for community health centers shall be for base grant adjustments for existing health centers: Provided further, That in addition to fees authorized by section 427(b) of the Health Care Quality Improvement Act of 1986, fees shall be collected for the full disclosure of information under the Act sufficient to recover the full costs of operating the National Practitioner Data Bank, and shall remain available until expended to carry out that Act: Provided further, That fees collected for the full disclosure of information under the ''Health Care Fraud and Abuse Data Collection Program'', authorized by section 1128E(d)(2) of the Social Security Act, shall be sufficient to recover the full costs of operating the program, and shall remain available until expended to carry out that Act: Provided further, That no more than $40,000 is available until expended for carrying out the provisions of 42 U.S.C. 233(o) including associated administrative expenses and relevant evaluations: Provided further, That no more than $44,055,000 is available until expended for carrying out the provisions of Public Law 104–73 and for expenses incurred by the Department of Health and Human Services pertaining to administrative claims made under such law: Provided further, That of the funds made available under this heading, $310,910,000 shall be for the program under title X of the Public Health Service Act to provide for voluntary family planning projects: Provided further, That amounts provided to said projects under such title shall not be expended for abortions, that all pregnancy counseling shall be nondirective, and that such amounts shall not be expended for any activity (including the publication or distribution of literature) that in any way tends to promote public support or opposition to any legislative proposal or candidate for public office: Provided further, That of the funds available under this heading, $1,868,809,000 shall remain available to the Secretary of Health and Human Services through September 30, 2010, for parts A and B of title XXVI of the Public Health Service Act: Provided further, That within the amounts provided for part A of title XXVI of the Public Health Service Act, $9,377,000 is available to the Secretary of Health and Human Services through September 30, 2010, and shall be made available to qualifying jurisdictions within 45 days of enactment, for increasing supplemental grants for fiscal year 2008 to metropolitan areas that received grant funding in fiscal year 2007 under subpart I of part A of title XXVI of the Public Health Service Act to ensure that an area's total funding under subpart I of part A for fiscal year 2007, together with the amount of this additional funding, is not less than 91.6 percent of the amount of such area's total funding under part A for fiscal year 2006, and to transitional areas that received grant funding in fiscal year 2007 under subpart II of part A of title XXVI of the Public Health Service Act to ensure that an area's total funding under subpart II of part A for fiscal year 2007, together with the amount of this additional funding, is not less than 86.6 percent of the amount of such area's total funding under part A for fiscal year 2006: Provided further, That, notwithstanding section 2603(c)(1) of the Public Health Service Act, the additional funding to areas under the immediately preceding proviso, which may be used for costs incurred during fiscal year 2007, shall be available to the area for obligation from the date of the award through the end of the grant year for the award: Provided further, That $822,570,000 shall be for State AIDS Drug Assistance Programs authorized by section 2616 of the Public Health Service Act: Provided further, That in addition to amounts provided herein, $25,000,000 shall be available from amounts available under section 241 of the Public Health Service Act to carry out Parts A, B, C, and D of title XXVI of the Public Health Service Act to fund section 2691 Special Projects of National Significance: Provided further, That, notwithstanding section 502(a)(1) and 502(b)(1) of the Social Security Act, not to exceed $103,666,000 is available for carrying out special projects of regional and national significance pursuant to section 501(a)(2) of such Act

and $10,586,000 is available for projects described in paragraphs (A) through (F) of section 501(a)(3) of such Act: Provided further, That of the funds provided, $39,283,000 shall be provided to the Denali Commission as a direct lump payment pursuant to Public Law 106–113: Provided further, That of the funds provided, $25,000,000 shall be provided for the Delta Health Initiative as authorized in section 219 of this Act and associated administrative expenses: Provided further, That notwithstanding section 747(e)(2) of the PHS Act, not less than $5,000,000 shall be for general dentistry programs, not less than $5,000,000 shall be for pediatric dentistry programs and not less than $24,614,000 shall be for family medicine programs: Provided further, That of the funds available under this heading, $12,000,000 shall be provided for the National Cord Blood Inventory pursuant to the Stem Cell Therapeutic and Research Act of 2005.

HEALTH EDUCATION ASSISTANCE LOANS PROGRAM ACCOUNT

Such sums as may be necessary to carry out the purpose of the program, as authorized by title VII of the Public Health Service Act. For administrative expenses to carry out the guaranteed loan program, including section 709 of the Public Health Service Act, $2,906,000.

VACCINE INJURY COMPENSATION PROGRAM TRUST FUND

For payments from the Vaccine Injury Compensation Program Trust Fund, such sums as may be necessary for claims associated with vaccine-related injury or death with respect to vaccines administered after September 30, 1988, pursuant to subtitle 2 of title XXI of the Public Health Service Act, to remain available until expended: Provided, That for necessary administrative expenses, not to exceed $6,000,000 shall be available from the Trust Fund to the Secretary of Health and Human Services.

CENTERS FOR DISEASE CONTROL AND PREVENTION

DISEASE CONTROL, RESEARCH, AND TRAINING

To carry out titles II, III, VII, XI, XV, XVII, XIX, XXI, and XXVI of the Public Health Service Act, sections 101, 102, 103, 201, 202, 203, 301, 501, and 514 of the Federal Mine Safety and Health Act of 1977, section 13 of the Mine Improvement and New Emergency Response Act of 2006, sections 20, 21, and 22 of the Occupational Safety and Health Act of 1970, title IV of the Immigration and Nationality Act, section 501 of the Refugee Education Assistance Act of 1980, and for expenses necessary to support activities related to countering potential biological, disease, nuclear, radiological, and chemical threats to civilian populations; including purchase and insurance of official motor vehicles in foreign countries; and purchase, hire, maintenance, and operation of aircraft, $6,288,289,000, of which $147,000,000 shall remain available until expended for equipment, construction and renovation of facilities; of which $568,803,000 shall remain available until expended for the Strategic National Stockpile; of which $52,500,000 shall be available until expended to provide screening and treatment for first response emergency services personnel, residents, students, and others related to the September 11, 2001 terrorist attacks on the World Trade Center; and of which $121,541,000 for international HIV/AIDS shall remain available until September 30, 2009. In addition, such sums as may be derived from authorized user fees, which shall be credited to this account: Provided, That in addition to amounts provided herein, the following amounts shall be available from amounts available under section 241 of the Public Health Service Act: (1) $12,794,000 to carry out the National Immunization Surveys; (2) $116,550,000 to carry out the National Center for Health Statistics surveys; (3) $24,751,000 to carry out information systems standards development and architecture and applications-based research used at local public health levels; (4) $44,523,000 for Health Marketing; (5) $31,000,000 to carry out Public Health Research; and (6) $97,404,000 to carry out research activities within the National Occupational Research Agenda: Provided further, That none of the funds made available for injury prevention and control at the Centers for Disease Control and Prevention may be used, in whole or in part, to advocate or promote gun control: Provided further, That up to $31,800,000 shall be made available until expended for Individual Learning Accounts for full-time equivalent employees of the Centers for Disease Control and Prevention: Provided further, That the Director may redirect the total amount made available under authority of Public Law 101–502, section 3, dated November 3, 1990, to activities the Director may so designate: Provided further, That the Committees on Appropriations of the House of Representatives and the Senate are to be notified promptly of any such transfer: Provided further, That not to exceed $19,414,000 may be available for making grants under section 1509 of the Public Health Service Act to not less than 15 States, tribes, or tribal organizations: Provided further, That notwithstanding any other provision of law, a single contract or related contracts for development and construction of facilities may be employed which collectively include the full scope of the project: Provided further, That the solicitation and contract shall contain the clause ''availability of funds'' found at 48 CFR 52.232–18: Provided further, That of the funds appropriated, $10,000 is for official reception and representation expenses when specifically approved by the Director of the Centers for Disease Control and Prevention: Provided further, That employees of the Centers for Disease Control and Prevention or the Public Health Service, both civilian and Commissioned Officers, detailed to States, municipalities, or other organizations under authority of section 214 of the Public Health Service Act, or in overseas assignments, shall be treated as non-Federal employees for reporting purposes only and shall not be included within any personnel ceiling applicable to the Agency, Service, or the Department of Health and Human Services during the period of detail or assignment: Provided further, That out of funds made available under this heading for domestic HIV/AIDS testing, up to $30,000,000 shall be for States eligible under section 2625 of the Public Health Service Act as of December 31, 2007 and shall be distributed by March 31, 2008 based on standard criteria relating to a State's epidemiological profile, and of which not more than $1,000,000 may be made available to any one State, and any amounts that have not been obligated by March 31, 2008 shall be used to make grants authorized by other provisions of the Public Health Service Act to States and local public health departments for HIV prevention activities.

NATIONAL INSTITUTES OF HEALTH

NATIONAL CANCER INSTITUTE

For carrying out section 301 and title IV of the Public Health Service Act with respect to cancer, $4,925,740,000, of which up to $8,000,000 may be used for facilities repairs and improvements at the NCI-Frederick Federally Funded Research and Development Center in Frederick, Maryland.

NATIONAL HEART, LUNG, AND BLOOD INSTITUTE

For carrying out section 301 and title IV of the Public Health Service Act with respect to cardiovascular, lung, and blood diseases, and blood and blood products, $3,001,691,000.

NATIONAL INSTITUTE OF DENTAL AND CRANIOFACIAL RESEARCH

For carrying out section 301 and title IV of the Public Health Service Act with respect to dental disease, $399,867,000.

NATIONAL INSTITUTE OF DIABETES AND DIGESTIVE AND KIDNEY DISEASES

For carrying out section 301 and title IV of the Public Health Service Act with respect to diabetes and digestive and kidney disease, $1,753,037,000.

NATIONAL INSTITUTE OF NEUROLOGICAL DISORDERS AND STROKE

For carrying out section 301 and title IV of the Public Health Service Act with respect to neurological disorders and stroke, $1,578,210,000.

NATIONAL INSTITUTE OF ALLERGY AND INFECTIOUS DISEASES

(INCLUDING TRANSFER OF FUNDS)

For carrying out section 301 and title IV of the Public Health Service Act with respect to allergy and infectious diseases, $4,682,585,000: Provided, That $300,000,000 may be made available to International Assistance Programs ''Global Fund to Fight HIV/AIDS, Malaria, and Tuberculosis'', to remain available until expended: Provided further, That such sums obligated in fiscal years 2003 through 2007 for extramural facilities construction projects are to remain available until expended for disbursement, with prior notification of such projects to the Committees on Appropriations of the House of Representatives and the Senate.

NATIONAL INSTITUTE OF GENERAL MEDICAL SCIENCES

For carrying out section 301 and title IV of the Public Health Service Act with respect to general medical sciences, $1,984,879,000.

NATIONAL INSTITUTE OF CHILD HEALTH AND HUMAN DEVELOPMENT

For carrying out section 301 and title IV of the Public Health Service Act with respect to child health and human development, $1,286,379,000.

NATIONAL EYE INSTITUTE

For carrying out section 301 and title IV of the Public Health Service Act with respect to eye diseases and visual disorders, $684,126,000.

NATIONAL INSTITUTE OF ENVIRONMENTAL HEALTH SCIENCES

For carrying out sections 301 and 311 and title IV of the Public Health Service Act with respect to environmental health sciences, $658,258,000.

NATIONAL INSTITUTE ON AGING

For carrying out section 301 and title IV of the Public Health Service Act with respect to aging, $1,076,389,000.

NATIONAL INSTITUTE OF ARTHRITIS AND MUSCULOSKELETAL AND SKIN DISEASES

For carrying out section 301 and title IV of the Public Health Service Act with respect to arthritis and musculoskeletal and skin diseases, $521,459,000.

NATIONAL INSTITUTE ON DEAFNESS AND OTHER COMMUNICATION DISORDERS

For carrying out section 301 and title IV of the Public Health Service Act with respect to deafness and other communication disorders, $403,958,000.

NATIONAL INSTITUTE OF NURSING RESEARCH

For carrying out section 301 and title IV of the Public Health Service Act with respect to nursing research, $140,900,000.

NATIONAL INSTITUTE ON ALCOHOL ABUSE AND ALCOHOLISM

For carrying out section 301 and title IV of the Public Health Service Act with respect to alcohol abuse and alcoholism, $447,245,000.

NATIONAL INSTITUTE ON DRUG ABUSE

For carrying out section 301 and title IV of the Public Health Service Act with respect to drug abuse, $1,025,839,000.

NATIONAL INSTITUTE OF MENTAL HEALTH

For carrying out section 301 and title IV of the Public Health Service Act with respect to mental health, $1,440,557,000.

NATIONAL HUMAN GENOME RESEARCH INSTITUTE

For carrying out section 301 and title IV of the Public Health Service Act with respect to human genome research, $498,748,000.

NATIONAL INSTITUTE OF BIOMEDICAL IMAGING AND BIOENGINEERING

For carrying out section 301 and title IV of the Public Health Service Act with respect to biomedical imaging and bioengineering research, $305,884,000.

NATIONAL CENTER FOR RESEARCH RESOURCES

For carrying out section 301 and title IV of the Public Health Service Act with respect to research resources and general research support grants, $1,182,015,000.

NATIONAL CENTER FOR COMPLEMENTARY AND ALTERNATIVE MEDICINE

For carrying out section 301 and title IV of the Public Health Service Act with respect to complementary and alternative medicine, $124,647,000.

NATIONAL CENTER ON MINORITY HEALTH AND HEALTH DISPARITIES

For carrying out section 301 and title IV of the Public Health Service Act with respect to minority health and health disparities research, $204,542,000.

JOHN E. FOGARTY INTERNATIONAL CENTER

For carrying out the activities of the John E. Fogarty International Center (described in subpart 2 of part E of title IV of the Public Health Service Act), $68,216,000.

NATIONAL LIBRARY OF MEDICINE

For carrying out section 301 and title IV of the Public Health Service Act with respect to health information communications, $329,039,000, of which $4,000,000 shall be available until expended for improvement of information systems: Provided, That in fiscal year 2008, the National Library of Medicine may enter into personal services contracts for the provision of services in facilities owned, operated, or constructed under the jurisdiction of the National Institutes of Health: Provided further, That in addition to amounts provided herein, $8,200,000 shall be available from amounts available under section 241 of the Public Health Service Act to carry out the purposes of the National Information Center on Health Services Research and Health Care Technology established under section 478A of the Public Health Service Act and related health services.

OFFICE OF THE DIRECTOR

For carrying out the responsibilities of the Office of the Director, National Institutes of Health, $1,145,790,000, of which up to $25,000,000 shall be used to carry out section 215 of this Act: Provided, That funding shall be available for the purchase of not to exceed 29 passenger motor vehicles for replacement only: Provided further, That the National Institutes of Health is authorized to collect third party payments for the cost of clinical services that are incurred in National Institutes of Health research facilities and that such payments shall be credited to the National Institutes of Health Management Fund: Provided further, That all funds credited to such Fund shall remain available for one fiscal year after the fiscal year in which they are deposited: Provided further, That no more than $500,000 shall be available to carry out section 499 of the Public Health Service Act: Provided further, That $110,900,000 shall be available for continuation of the National Children's Study: Provided further, That $531,300,000 shall be available for the Common Fund established under section 402A(c)(1) of the Public Health Service Act: Provided further, That of the funds provided $10,000 shall be for official reception and representation expenses when specifically approved by the Director of the National Institutes of Health: Provided further, That the Office of AIDS Research within the Office of the Director of the National Institutes of Health may spend up to $4,000,000 to make grants for construction or renovation of facilities as provided for in section 2354(a)(5)(B) of the Public Health Service Act.

BUILDINGS AND FACILITIES

For the study of, construction of, renovation of, and acquisition of equipment for, facilities of or used by the National Institutes of Health, including the acquisition of real property, $130,000,000, to remain available until expended.

SUBSTANCE ABUSE AND MENTAL HEALTH SERVICES ADMINISTRATION

SUBSTANCE ABUSE AND MENTAL HEALTH SERVICES

For carrying out titles V and XIX of the Public Health Service Act (''PHS Act'') with respect to substance abuse and mental health services, the Protection and Advocacy for Individuals with Mental Illness Act, and section 301 of the PHS Act with respect to program management, $3,290,848,000, of which $19,644,000 shall be available for the projects and in the amounts specified in the statement of the managers on the conference report accompanying this Act: Provided, That notwithstanding section 520A(f)(2) of the PHS Act, no funds appropriated for carrying out section 520A are available for carrying out section 1971 of the PHS Act: Provided further, That in addition to amounts provided herein, the following amounts shall be available under section 241 of the PHS Act: (1) $79,200,000 to carry out subpart II of part B of title XIX of the PHS Act to fund section 1935(b) technical assistance, national data, data collection and evaluation activities, and further that the total available under this Act for section 1935(b) activities shall not exceed 5 percent of the amounts appropriated for subpart II of part B of title XIX; (2) $21,413,000 to carry out subpart I of part B of title XIX of the PHS Act to fund section 1920(b) technical assistance, national data, data collection and evaluation activities, and further that the total available under this Act for section 1920(b) activities shall not exceed 5 percent of the amounts appropriated for subpart I of part B of title XIX; (3) $19,750,000 to carry out national surveys on drug abuse; and (4) $4,300,000 to evaluate substance abuse treatment programs: Provided further, That section 520E(b)(2) of the Public Health Service Act shall not apply to funds appropriated under this Act for fiscal year 2008.

AGENCY FOR HEALTHCARE RESEARCH AND QUALITY

HEALTHCARE RESEARCH AND QUALITY

For carrying out titles III and IX of the Public Health Service Act, and part A of title XI of the Social Security Act, amounts received from Freedom of Information Act fees, reimbursable and interagency agreements, and the sale of data shall be credited to this appropriation and shall remain available until expended: Provided, That the amount made available pursuant to section 937(c) of the Public Health Service Act shall not exceed $334,564,000.

CENTERS FOR MEDICARE AND MEDICAID SERVICES

GRANTS TO STATES FOR MEDICAID

For carrying out, except as otherwise provided, titles XI and XIX of the Social Security Act, $141,628,056,000, to remain available until expended.

For making, after May 31, 2008, payments to States under title XIX of the Social Security Act for the last quarter of fiscal year 2008 for unanticipated costs, incurred for the current fiscal year, such sums as may be necessary.

For making payments to States or in the case of section 1928 on behalf of States under title XIX of the Social Security Act for the first quarter of fiscal year 2009, $67,292,669,000, to remain available until expended.

Payment under title XIX may be made for any quarter with respect to a State plan or plan amendment in effect during such quarter, if submitted in or prior to such quarter and approved in that or any subsequent quarter.

PAYMENTS TO HEALTH CARE TRUST FUNDS

For payment to the Federal Hospital Insurance and the Federal Supplementary Medical Insurance Trust Funds, as provided under section 1844 and 1860D–16 of the Social Security Act, sections 103(c) and 111(d) of the Social Security Amendments of 1965, section 278(d) of Public Law 97–248, and for administrative expenses incurred pursuant to section 201(g) of the Social Security Act, $188,828,000,000.

In addition, for making matching payments under section 1844, and benefit payments under section 1860D–16 of the Social Security Act, not anticipated in budget estimates, such sums as may be necessary.

PROGRAM MANAGEMENT

For carrying out, except as otherwise provided, titles XI, XVIII, XIX, and XXI of the Social Security Act, titles XIII and XXVII of the Public Health Service Act, and the Clinical Laboratory Improvement Amendments of 1988, not to exceed $3,276,502,000, to be transferred from the Federal Hospital Insurance and the Federal Supplementary Medical Insurance Trust Funds, as authorized by section 201(g) of the Social Security Act; together with all funds collected in accordance with section 353 of the Public Health Service Act and section 1857(e)(2) of the Social Security Act, funds retained by the Secretary pursuant to section 302 of the Tax Relief and Health Care Act of 2006; and such sums as may be collected from authorized user fees and the sale of data, which shall remain available until expended: Provided, That all funds derived in accordance with 31 U.S.C. 9701 from organizations established under title XIII of the Public Health Service Act shall be credited to and available for carrying out the purposes of this appropriation: Provided further, That $49,869,000, to remain available until September 30, 2009, is for contract costs for the Healthcare Integrated General Ledger Accounting System: Provided further, That $193,000,000, to remain available until September 30, 2009, is for CMS Medicare contracting reform activities: Provided further, That funds appropriated under this heading are available for the Healthy Start, Grow Smart program under which the Centers for Medicare and Medicaid Services may, directly or through grants, contracts, or cooperative agreements, produce and distribute informational materials including, but not limited to, pamphlets and brochures on infant and toddler health care to expectant parents enrolled in the Medicaid program and to parents and guardians enrolled in such program with infants and children: Provided further, That the Secretary of Health and Human Services is directed to collect fees in fiscal year 2008 from Medicare Advantage organizations pursuant to section 1857(e)(2) of the Social Security Act and from eligible organizations with risk-sharing contracts under section 1876 of that Act pursuant to section 1876(k)(4)(D) of that Act: Provided further, That $5,140,000 shall be available for the projects and in the amounts specified in the statement of the managers on the conference report accompanying this Act.

HEALTH CARE FRAUD ABUSE AND CONTROL ACCOUNT

In addition to amounts otherwise available for program integrity and program management, $383,000,000, to be available until expended, to be transferred from the Federal Hospital Insurance and the Federal Supplementary Insurance Trust Funds, as authorized by section 201(g) of the Social Security Act, of which $249,620,000 is for the Centers for Medicare and Medicaid Services for carrying out program integrity activities with respect to title XVIII of such Act, including activities authorized under the Medicare Integrity Program under section 1893 of such Act; of which $35,000,000 is for the Centers for Medicare and Medicaid Services for carrying out Medicaid IPIA Compliance with respect to titles XIX and XXI of such Act; and of which, for carrying out fraud and abuse control activities authorized by section 1817(k)(3) of such Act, $36,690,000 is for the Department of Justice; $36,690,000 is for the Department of Health and Human Services Office of the Inspector General; and $25,000,000 is for the Department of Health and Human Services: Provided, That the report required by section 1817(k)(5) of such Act for fiscal year 2008 shall include measures of the operational efficiency and impact on fraud, waste and abuse in the Medicare and Medicaid programs of the funds provided by this appropriation.

ADMINISTRATION FOR CHILDREN AND FAMILIES

PAYMENTS TO STATES FOR CHILD SUPPORT ENFORCEMENT AND FAMILY SUPPORT PROGRAMS

For making payments to States or other non-Federal entities under titles I, IV–D, X, XI, XIV, and XVI of the Social Security Act and the Act of July 5, 1960 (24 U.S.C. chapter 9), $2,949,713,000, to remain available until expended; and for such purposes for the first quarter of fiscal year 2009, $1,000,000,000, to remain available until expended.

For making payments to each State for carrying out the program of Aid to Families with Dependent Children under title IV–A of the Social Security Act before the effective date of the program of Temporary Assistance for Needy Families (TANF) with respect to such State, such sums as may be necessary: Provided, That the sum of the amounts available to a State with respect to expenditures under such title IV–A in fiscal year 1997 under this appropriation and under such title IV–A as amended by the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 shall not exceed the limitations under section 116(b) of such Act.

For making, after May 31 of the current fiscal year, payments to States or other non-Federal entities under titles I, IV–D, X, XI, XIV, and XVI of the Social Security Act and the Act of July 5, 1960 (24 U.S.C. chapter 9), for the last 3 months of the current fiscal year for unanticipated costs, incurred for the current fiscal year, such sums as may be necessary.

LOW-INCOME HOME ENERGY ASSISTANCE

For making payments under section 2604(a)–(d) of the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8623(a)–(d)), $1,980,000,000.

For making payments under section 2604(e) of the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8623(e)), $431,585,000, notwithstanding the designation requirement of section 2602(e) of such Act.

REFUGEE AND ENTRANT ASSISTANCE

For necessary expenses for refugee and entrant assistance activities and for costs associated with the care and placement of unaccompanied alien children authorized by title IV of the Immigration and Nationality Act and section 501 of the Refugee Education Assistance Act of 1980, for carrying out section 462 of the Homeland Security Act of 2002, and for carrying out the Torture Victims Relief Act of 1998, $652,394,000, of which up to $9,814,000 shall be available to carry out the Trafficking Victims Protection Act of 2000: Provided, That funds appropriated under this heading pursuant to section 414(a) of the Immigration and Nationality Act and section 462 of the Homeland Security Act of 2002 for fiscal year 2008 shall be available for the costs of assistance provided and other activities to remain available through September 30, 2010.

PAYMENTS TO STATES FOR THE CHILD CARE AND DEVELOPMENT BLOCK GRANT

For carrying out the Child Care and Development Block Grant Act of 1990, $2,094,581,000 shall be used to supplement, not supplant State general revenue funds for child care assistance for low-income families: Provided, That $18,777,370 shall be available for child care resource and referral and school-aged child care activities, of which $982,080 shall be for the Child Care Aware toll-free hotline: Provided further, That, in addition to the amounts required to be reserved by the States under section 658G, $267,785,718 shall be reserved by the States for activities authorized under section 658G, of which $98,208,000 shall be for activities that improve the quality of infant and toddler care: Provided further, That $9,821,000 shall be for use by the Secretary for child care research, demonstration, and evaluation activities.

In addition, $5,000,000, to remain available until September 30, 2009, shall be for carrying out the small business child care grant program under section 8303 of the U.S. Troop Readiness, Veterans' Care, Katrina Recovery, and Iraq Accountability Appropriations Act, 2007.

SOCIAL SERVICES BLOCK GRANT

For making grants to States pursuant to section 2002 of the Social Security Act, $1,700,000,000: Provided, That notwithstanding subparagraph (B) of section 404(d)(2) of such Act, the applicable percent specified under such subparagraph for a State to carry out State programs pursuant to title XX of such Act shall be 10 percent.

CHILDREN AND FAMILIES SERVICES PROGRAMS

For carrying out, except as otherwise provided, the Runaway and Homeless Youth Act, the Developmental Disabilities Assistance and Bill of Rights Act, the Head Start Act, the Child Abuse Prevention and Treatment Act, sections 310 and 316 of the Family Violence Prevention and Services Act, the Native American Programs Act of 1974, title II of the Child Abuse Prevention and Treatment and Adoption Reform Act of 1978 (adoption opportunities), sections 330F and 330G of the Public Health Service Act, the Abandoned Infants Assistance Act of 1988, sections 261 and 291 of the Help America Vote Act of 2002, part B(1) of title IV and sections 413, 1110, and 1115 of the Social Security Act; for making payments under the Community Services Block Grant Act, sections 439(i), 473B, and 477(i) of the Social Security Act, and the Assets for Independence Act, and for necessary administrative expenses to carry out such Acts and titles I, IV, V, X, XI, XIV, XVI, and XX of the Social Security Act, the Act of July 5, 1960 (24 U.S.C. chapter 9), the Low-Income Home Energy Assistance Act of 1981, title IV of the Immigration and Nationality Act, section 501 of the Refugee Education Assistance Act of 1980, and section 505 of the Family Support Act of 1988, $9,220,695,000, of which $4,400,000, to remain available until September 30, 2009, shall be for grants to States for adoption incentive payments, as authorized by section 473A of the Social Security Act and may be made for adoptions completed before September 30, 2008: Provided, That $7,042,196,000 shall be for making payments under the Head Start Act, of which $1,388,800,000 shall become available October 1, 2008, and remain available through September 30, 2009: Provided further, That $706,125,000 shall be for making payments under the Community Services Block Grant Act: Provided further, That not less than $8,000,000 shall be for section 680(3)(B) of the Community Services Block Grant Act: Provided further, That in addition to amounts provided herein, $6,000,000 shall be available from amounts available under section 241 of the Public Health Service Act to carry out the provisions of section 1110 of the Social Security Act: Provided further, That to the extent Community Services Block Grant funds are distributed as grant funds by a State to an eligible entity as provided under the Act, and have not been expended by such entity, they shall remain with such entity for carryover into the next fiscal year for expenditure by such entity consistent with program purposes: Provided further, That the Secretary of Health and Human Services shall establish procedures regarding the disposition of intangible property which permits grant funds, or intangible assets acquired with funds authorized under section 680 of the Community Services Block Grant Act to become the sole property of such grantees after a period of not more than 12 years after the end of the grant for purposes and uses consistent with the original grant: Provided further, That funds appropriated for section 680(a)(2) of the Community Services Block Grant Act shall be available for financing construction and rehabilitation and loans or investments in private business enterprises owned by community development corporations: Provided further, That $53,625,000 is for a compassion capital fund to provide grants to charitable organizations to emulate model social service programs and to encourage research on the best practices of social service organizations: Provided further, That $18,820,000 shall be for activities authorized by the Help America Vote Act of 2002, of which $12,920,000 shall be for payments to States to promote access for voters with disabilities, and of which $5,900,000 shall be for payments to States for protection and advocacy systems for voters with disabilities: Provided further, That $136,664,000 shall be for making competitive grants to provide abstinence education (as defined by section 510(b)(2) of the Social Security Act) to adolescents, and for Federal costs of administering the grant: Provided further, That grants under the immediately preceding proviso shall be made only to public and private entities which agree that, with respect to an adolescent to whom the entities provide abstinence education under such grant, the entities will not provide to that adolescent any other education regarding sexual conduct, except that, in the case of an entity expressly required by law to provide health information or services the adolescent shall not be precluded from seeking health information or services from the entity in a different setting than the setting in which abstinence education was provided: Provided further, That within amounts provided herein for abstinence education for adolescents, up to $10,000,000 may be available for a national abstinence education campaign: Provided further, That in addition to amounts provided herein for abstinence education for adolescents, $4,500,000 shall be available from amounts available under section 241 of the Public Health Service Act to carry out evaluations (including longitudinal evaluations) of adolescent pregnancy prevention approaches: Provided further, That up to $2,000,000 shall be for improving the Public Assistance Reporting Information System, including grants to States to support data collection for a study of the system's effectiveness.

PROMOTING SAFE AND STABLE FAMILIES

For carrying out section 436 of the Social Security Act, $345,000,000 and section 437, $89,100,000.

PAYMENTS TO STATES FOR FOSTER CARE AND ADOPTION ASSISTANCE

For making payments to States or other non-Federal entities under title IV–E of the Social Security Act, $5,067,000,000.

For making payments to States or other non-Federal entities under title IV–E of the Act, for the first quarter of fiscal year 2009, $1,776,000,000.

For making, after May 31 of the current fiscal year, payments to States or other non-Federal entities under section 474 of title IV–E, for the last 3 months of the current fiscal year for unanticipated costs, incurred for the current fiscal year, such sums as may be necessary.

ADMINISTRATION ON AGING

AGING SERVICES PROGRAMS

For carrying out, to the extent not otherwise provided, the Older Americans Act of 1965 and section 398 of the Public Health Service Act, $1,446,651,000, of which $5,500,000 shall be available for activities regarding medication management, screening, and education to prevent incorrect medication and adverse drug reactions.

OFFICE OF THE SECRETARY

GENERAL DEPARTMENTAL MANAGEMENT

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses, not otherwise provided, for general departmental management, including hire of six sedans, and for carrying out titles III, XVII, XX, and XXI of the Public Health Service Act, the Lifespan Respite Care Act, the United States-Mexico Border Health Commission Act, and research studies under section 1110 of the Social Security Act, $387,070,000, together with $5,851,000 to be transferred and expended as authorized by section 201(g)(1) of the Social Security Act from the Hospital Insurance Trust Fund and the Supplemental Medical Insurance Trust Fund, and $46,756,000 from the amounts available under section 241 of the Public Health Service Act to carry out national

health or human services research and evaluation activities: Provided, That of the funds made available under this heading for carrying out title XX of the Public Health Service Act, $13,120,000 shall be for activities specified under section 2003(b)(2), all of which shall be for prevention service demonstration grants under section 510(b)(2) of title V of the Social Security Act, as amended, without application of the limitation of section 2010(c) of said title XX: Provided further, That of this amount, $51,891,000 shall be for minority AIDS prevention and treatment activities; and $5,941,000 shall be to assist Afghanistan in the development of maternal and child health clinics, consistent with section 103(a)(4)(H) of the Afghanistan Freedom Support Act of 2002; and $1,000,000 shall be transferred, not later than 30 days after enactment of this Act, to the National Institute of Mental Health to administer the Interagency Autism Coordinating Committee; and $5,500,000 shall be for a Health Diplomacy Initiative and may be used to carry out health diplomacy activities such as health training, services, education, and program evaluation, provided directly, through grants, or through contracts: Provided further, That specific information requests from the chairmen and ranking members of the Subcommittees on Labor, Health and Human Services, and Education, and Related Agencies, on scientific research or any other matter, shall be transmitted to the Committees on Appropriations in a prompt, professional manner and within the time frame specified in the request: Provided further, That scientific information, including such information provided in congressional testimony, requested by the Committees on Appropriations and prepared by government researchers and scientists shall be transmitted to the Committees on Appropriations, uncensored and without delay: Provided further, That funds provided in this Act for embryo adoption activities may be used to provide, to individuals adopting embryos, through grants and other mechanisms, medical and administrative services deemed necessary for such adoptions: Provided further, That such services shall be provided consistent with 42 CFR 59.5(a)(4).

OFFICE OF MEDICARE HEARINGS AND APPEALS

For expenses necessary for administrative law judges responsible for hearing cases under title XVIII of the Social Security Act (and related provisions of title XI of such Act), $67,500,000, to be transferred in appropriate part from the Federal Hospital Insurance and the Federal Supplementary Medical Insurance Trust Funds.

OFFICE OF THE NATIONAL COORDINATOR FOR HEALTH INFORMATION TECHNOLOGY

For expenses necessary for the Office of the National Coordinator for Health Information Technology, including grants, contracts and cooperative agreements for the development and advancement of an interoperable national health information technology infrastructure, $27,651,000: Provided, That in addition to amounts provided herein, $38,500,000 shall be available from amounts available under section 241 of the Public Health Service Act to carry out health information technology network development.

OFFICE OF INSPECTOR GENERAL

For expenses necessary for the Office of Inspector General, including the hire of passenger motor vehicles for investigations, in carrying out the provisions of the Inspector General Act of 1978, $45,187,000: Provided, That of such amount, necessary sums are available for providing protective services to the Secretary and investigating non-payment of child support cases for which non-payment is a Federal offense under 18 U.S.C. 228.

OFFICE FOR CIVIL RIGHTS

For expenses necessary for the Office for Civil Rights, $33,748,000, together with not to exceed $3,314,000 to be transferred and expended as authorized by section 201(g)(1) of the Social Security Act from the Hospital Insurance Trust Fund and the Supplemental Medical Insurance Trust Fund.

RETIREMENT PAY AND MEDICAL BENEFITS FOR COMMISSIONED OFFICERS

For retirement pay and medical benefits of Public Health Service Commissioned Officers as authorized by law, for payments under the Retired Serviceman's Family Protection Plan and Survivor Benefit Plan, for medical care of dependents and retired personnel under the Dependents' Medical Care Act (10 U.S.C. chapter 55), such amounts as may be required during the current fiscal year.

PUBLIC HEALTH AND SOCIAL SERVICES EMERGENCY FUND

(INCLUDING TRANSFER OF FUNDS)

For expenses necessary to support activities related to countering potential biological, disease, nuclear, radiological and chemical threats to civilian populations, and for other public health emergencies, $741,586,000, of which not to exceed $22,363,000, to remain available until September 30, 2009, is to pay the costs described in section 319F–2(c)(7)(B) of the Public Health Service Act, and of which $149,250,000 shall be used to support advanced research and development of medical countermeasures, consistent with section 319L of the Public Health Service Act.

For expenses necessary to prepare for and respond to an influenza pandemic, $763,923,000, of which $685,832,000 shall be available until expended, for activities including the development and purchase of vaccine, antivirals, necessary medical supplies, diagnostics, and other surveillance tools: Provided, That products purchased with these funds may, at the discretion of the Secretary, be deposited in the Strategic National Stockpile: Provided further, That notwithstanding section 496(b) of the Public Health Service Act, funds may be used for the construction or renovation of privately owned facilities for the production of pandemic influenza vaccines and other biologicals, where the Secretary finds such a contract necessary to secure sufficient supplies of such vaccines or biologicals: Provided further, That funds appropriated herein may be transferred to other appropriation accounts of the Department of Health and Human Services, as determined by the Secretary to be appropriate, to be used for the purposes specified in this sentence.

GENERAL PROVISIONS

SEC. 201. Funds appropriated in this title shall be available for not to exceed $50,000 for official reception and representation expenses when specifically approved by the Secretary of Health and Human Services.

SEC. 202. The Secretary shall make available through assignment not more than 60 employees of the Public Health Service to assist in child survival activities and to work in AIDS programs through and with funds provided by the Agency for International Development, the United Nations International Children's Emergency Fund or the World Health Organization.

SEC. 203. None of the funds appropriated in this Act for the National Institutes of Health, the Agency for Healthcare Research and Quality, and the Substance Abuse and Mental Health Services Administration shall be used to pay the salary of an individual, through a grant or other extramural mechanism, at a rate in excess of Executive Level I.

SEC. 204. None of the funds appropriated in this title for Head Start shall be used to pay the compensation of an individual, either as direct costs or any proration as an indirect cost, at a rate in excess of Executive Level II.

SEC. 205. None of the funds appropriated in this Act may be expended pursuant to section 241 of the Public Health Service Act, except for funds specifically provided for in this Act, or for other taps and assessments made by any office located in the Department of Health and Human Services, prior to the preparation and submission of a report by the Secretary of Health and Human Services to the Committees on Appropriations of the House of Representatives and the Senate detailing the planned uses of such funds.

SEC. 206. Notwithstanding section 241(a) of the Public Health Service Act, such portion as the Secretary of Health and Human Services shall determine, but not more than 2.4 percent, of any amounts appropriated for programs authorized under such Act shall be made available for the evaluation (directly, or by grants or contracts) of the implementation and effectiveness of such programs.

(TRANSFER OF FUNDS)

SEC. 207. Not to exceed 1 percent of any discretionary funds (pursuant to the Balanced Budget and Emergency Deficit Control Act of 1985) which are appropriated for the current fiscal year for the Department of Health and Human Services in this Act may be transferred between a program, project, or activity, but no such program, project, or activity shall be increased by more than 3 percent by any such transfer: Provided, That the transfer authority granted by this section shall be available only to meet emergency needs and shall not be used to create any new program or to fund any project or activity for which no funds are provided in this Act: Provided further, That the Committees on Appropriations of the House of Representatives and the Senate are notified at least 15 days in advance of any transfer.

(TRANSFER OF FUNDS)

SEC. 208. The Director of the National Institutes of Health, jointly with the Director of the Office of AIDS Research, may transfer up to 3 percent among institutes and centers from the total amounts identified by these two Directors as funding for research pertaining to the human immunodeficiency virus: Provided, That the Committees on Appropriations of the House of Representatives and the Senate are notified at least 15 days in advance of any transfer.

(TRANSFER OF FUNDS)

SEC. 209. Of the amounts made available in this Act for the National Institutes of Health, the amount for research related to the human immunodeficiency virus, as jointly determined by the Director of the National Institutes of Health and the Director of the Office of AIDS Research, shall be made available to the ''Office of AIDS Research'' account. The Director of the Office of AIDS Research shall transfer from such account amounts necessary to carry out section 2353(d)(3) of the Public Health Service Act.

SEC. 210. None of the funds appropriated in this Act may be made available to any entity under title X of the Public Health Service Act unless the applicant for the award certifies to the Secretary that it encourages family participation in the decision of minors to seek family planning services and that it provides counseling to minors on how to resist attempts to coerce minors into engaging in sexual activities.

SEC. 211. Notwithstanding any other provision of law, no provider of services under title X of the Public Health Service Act shall be exempt from any State law requiring notification or the reporting of child abuse, child molestation, sexual abuse, rape, or incest.

SEC. 212. None of the funds appropriated by this Act (including funds appropriated to any trust fund) may be used to carry out the Medicare Advantage program if the Secretary of Health and Human Services denies participation in such program to an otherwise eligible entity (including a Provider Sponsored Organization) because the entity informs the Secretary that it will not provide, pay for, provide coverage of, or provide referrals for abortions: Provided, That the Secretary shall make appropriate prospective adjustments to the capitation payment to such an entity (based on an actuarially sound estimate of the expected costs of providing the

service to such entity's enrollees): Provided further, That nothing in this section shall be construed to change the Medicare program's coverage for such services and a Medicare Advantage organization described in this section shall be responsible for informing enrollees where to obtain information about all Medicare covered services.

SEC. 213. (a) Except as provided by subsection (e) none of the funds appropriated by this Act may be used to withhold substance abuse funding from a State pursuant to section 1926 of the Public Health Service Act (42 U.S.C. 300x–26) if such State certifies to the Secretary of Health and Human Services by May 1, 2008, that the State will commit additional State funds, in accordance with subsection (b), to ensure compliance with State laws prohibiting the sale of tobacco products to individuals under 18 years of age.

(b) The amount of funds to be committed by a State under subsection (a) shall be equal to 1 percent of such State's substance abuse block grant allocation for each percentage point by which the State misses the retailer compliance rate goal established by the Secretary of Health and Human Services under section 1926 of such Act.

(c) The State is to maintain State expenditures in fiscal year 2008 for tobacco prevention programs and for compliance activities at a level that is not less than the level of such expenditures maintained by the State for fiscal year 2007, and adding to that level the additional funds for tobacco compliance activities required under subsection (a). The State is to submit a report to the Secretary on all fiscal year 2007 State expenditures and all fiscal year 2008 obligations for tobacco prevention and compliance activities by program activity by July 31, 2008.

(d) The Secretary shall exercise discretion in enforcing the timing of the State obligation of the additional funds required by the certification described in subsection (a) as late as July 31, 2008.

(e) None of the funds appropriated by this Act may be used to withhold substance abuse funding pursuant to section 1926 of the Public Health Service Act from a territory that receives less than $1,000,000.

SEC. 214. In order for the Centers for Disease Control and Prevention to carry out international health activities, including HIV/AIDS and other infectious disease, chronic and environmental disease, and other health activities abroad during fiscal year 2008:

(1) The Secretary of Health and Human Services (in this section referred to as the ''Secretary of HHS'') may exercise authority equivalent to that available to the Secretary of State in section 2(c) of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2669(c)). The Secretary of HHS shall consult with the Secretary of State and relevant Chief of Mission to ensure that the authority provided in this section is exercised in a manner consistent with section 207 of the Foreign Service Act of 1980 (22 U.S.C. 3927) and other applicable statutes administered by the Department of State.

(2) The Secretary of HHS is authorized to provide such funds by advance or reimbursement to the Secretary of State as may be necessary to pay the costs of acquisition, lease, alteration, renovation, and management of facilities outside of the United States for the use of the Department of Health and Human Services. The Department of State shall cooperate fully with the Secretary of HHS to ensure that the Department of Health and Human Services has secure, safe, functional facilities that comply with applicable regulation governing location, setback, and other facilities requirements and serve the purposes established by this Act. The Secretary of HHS is authorized, in consultation with the Secretary of State, through grant or cooperative agreement, to make available to public or nonprofit private institutions or agencies in participating foreign countries, funds to acquire, lease, alter, or renovate facilities in those countries as necessary to conduct programs of assistance for international health activities, including activities relating to HIV/AIDS and other infectious diseases, chronic and environmental diseases, and other health activities abroad.

SEC. 215. (a) AUTHORITY.—Notwithstanding any other provision of law, the Director of the National Institutes of Health (in this section referred to as the ''Director of NIH'') may use funds available under section 402(b)(7) or 402(b)(12) of the Public Health Service Act (42 U.S.C. 282(b)(7), 282(b)(12)) to enter into transactions (other than contracts, cooperative agreements, or grants) to carry out research identified pursuant to such section 402(b)(7) (pertaining to the Common Fund) or research and activities described in such section 402(b)(12).

(b) PEER REVIEW.—In entering into transactions under subsection (a), the Director of the NIH may utilize such peer review procedures (including consultation with appropriate scientific experts) as the Director determines to be appropriate to obtain assessments of scientific and technical merit. Such procedures shall apply to such transactions in lieu of the peer review and advisory council review procedures that would otherwise be required under sections 301(a)(3), 405(b)(1)(B), 405(b)(2), 406(a)(3)(A), 492, and 494 of the Public Health Service Act (42 U.S.C. 241(a)(3), 284(b)(1)(B), 284(b)(2), 284a(a)(3)(A), 289a, and 289c).

SEC. 216. Funds which are available for Individual Learning Accounts for employees of the Centers for Disease Control and Prevention (''CDC'') and the Agency for Toxic Substances and Disease Registry (''ATSDR)'' may be transferred to ''Disease Control, Research, and Training'', to be available only for Individual Learning Accounts: Provided, That such funds may be used for any individual full-time equivalent employee while such employee is employed either by CDC or ATSDR.

SEC. 217. Notwithstanding any other provisions of law, funds made available in this Act may be used to continue operating the Council on Graduate Medical Education established by section 301 of Public Law 102–408.

SEC. 218. The Director of the National Institutes of Health shall require that all investigators funded by the NIH submit or have submitted for them to the National Library of Medicine's PubMed Central an electronic version of their final, peer-reviewed manuscripts upon acceptance for publication, to be made publicly available no later than 12 months after the official date of publication: Provided, That the NIH shall implement the public access policy in a manner consistent with copyright law.

SEC. 219. (a) The Secretary of Health and Human Services is authorized to award a grant to the Delta Health Alliance, a nonprofit alliance of academic institutions in the Mississippi Delta region that has as its primary purposes addressing longstanding, unmet health needs and catalyzing economic development in the Mississippi Delta.

(b) To be eligible to receive a grant under subsection (a), the Delta Health Alliance shall solicit and fund proposals from local governments, hospitals, health care clinics, academic institutions, and rural public health-related entities and organizations for research development, educational programs, health care services, job training, and planning, construction, and equipment of public health-related facilities in the Mississippi Delta region.

(c) With respect to the use of grant funds under this section for construction or major alteration of property, the Federal interest in the property involved shall last for a period of 1 year following the completion of the project or until such time that the Federal Government is compensated for its proportionate interest in the property if the property use changes or the property is transferred or sold, whichever time period is less. At the conclusion of such period, the Notice of Federal Interest in such property shall be removed.

(d) There are authorized to be appropriated such sums as may be necessary to carry out this section in fiscal year 2008 and in each of the five succeeding fiscal years.

SEC. 220. Not to exceed $35,000,000 of funds appropriated by this Act to the institutes and centers of the National Institutes of Health may be used for alteration, repair, or improvement of facilities, as necessary for the proper and efficient conduct of the activities authorized herein, at not to exceed $2,500,000 per project.

SEC. 221. (a) PROHIBITION.—With respect to the 2010–2011 influenza season, the Secretary of Health and Human Services (the Secretary) shall not use or make available any funds for the administration of any influenza vaccine containing thimerosal as a preservative (thimerosal-free) to any child under 3 years of age, unless the Secretary:

(1) finds that there is inadequate supply of thimerosal-free influenza vaccine for the covered population and for the respective influenza season; or

(2) finds that an actual or potential public health situation justifies the use of other influenza vaccine for children under 3 years of age; and

(3) gives written notice of such findings (and an explanation of the basis for the findings) to the Congress and of actions the Secretary is taking to ensure adequate supply of pediatric thimerosal-free influenza vaccine for the following influenza season.

(b) REPORT TO CONGRESS.—To improve public confidence in the safety of vaccines, the Secretary shall submit to the Congress a plan no later than April 1, 2008—

(1) to work proactively with manufacturers of influenza vaccine to facilitate the approval of thimerosal-free influenza vaccine for administration to children under 3 years of age;

(2) to increase the Federal Government's purchases of thimerosal-free influenza vaccine; and

(3) to take any other actions determined appropriate by the Secretary to increase the supply of thimerosal-free influenza vaccine.

(TRANSFER OF FUNDS)

SEC. 222. Of the amounts made available in this Act for the National Institutes of Health, 1 percent of the amount made available for National Research Service Awards (NRSA) shall be made available to the Administrator of the Health Resources and Services Administration to make NRSA awards for research in primary medical care to individuals affiliated with entities who have received grants or contracts under section 747 of the Public Health Service Act, and 1 percent of the amount made available for NRSA shall be made available to the Director of the Agency for Healthcare Research and Quality to make NRSA awards for health service research.

SEC. 223. None of the funds made available in this Act may be used—

(1) for the Ombudsman Program of the Centers for Disease Control and Prevention; and

(2) by the Centers for Disease Control and Prevention to provide additional rotating pastel lights, zero-gravity chairs, or dry-heat saunas for its fitness center.

SEC. 224. There is hereby established in the Treasury of the United States a fund to be known as the ''Nonrecurring expenses fund'' (the Fund): Provided, That unobligated balances of expired discretionary funds appropriated for this or any succeeding fiscal year from the General Fund of the Treasury to the Department of Health and Human Services by this or any other Act may be transferred (not later than the end of the fifth fiscal year after the last fiscal year for which such funds are available for the purposes for which appropriated) into the Fund: Provided further, That amounts deposited in the Fund shall be available until expended, and in addition to such other funds as may be available for such purposes, for capital acquisition necessary for the

operation of the Department, including facilities infrastructure and information technology infrastructure, subject to approval by the Office of Management and Budget: Provided further, That amounts in the Fund may be obligated only after the Committees on Appropriations of the House of Representatives and the Senate are notified at least 15 days in advance of the planned use of funds.

This title may be cited as the ''Department of Health and Human Services Appropriations Act, 2008''.

TITLE III

DEPARTMENT OF EDUCATION

EDUCATION FOR THE DISADVANTAGED

For carrying out title I of the Elementary and Secondary Education Act of 1965 (''ESEA'') and section 418A of the Higher Education Act of 1965, $15,930,691,000, of which $7,611,423,000 shall become available on July 1, 2008, and shall remain available through September 30, 2009, and of which $8,136,218,000 shall become available on October 1, 2008, and shall remain available through September 30, 2009, for academic year 2008–2009: Provided, That $6,808,971,000 shall be for basic grants under section 1124: Provided further, That up to $4,000,000 of these funds shall be available to the Secretary of Education on October 1, 2007, to obtain annually updated local educational-agency-level census poverty data from the Bureau of the Census: Provided further, That $1,365,031,000 shall be for concentration grants under section 1124A: Provided further, That $3,068,680,000 shall be for targeted grants under section 1125: Provided further, That $3,068,680,000 shall be for education finance incentive grants under section 1125A: Provided further, That $9,330,000 shall be to carry out sections 1501 and 1503: Provided further, That $1,634,000 shall be available for a comprehensive school reform clearinghouse.

IMPACT AID

For carrying out programs of financial assistance to federally affected schools authorized by title VIII of the Elementary and Secondary Education Act of 1965, $1,262,778,000, of which $1,126,192,000 shall be for basic support payments under section 8003(b), $49,466,000 shall be for payments for children with disabilities under section 8003(d), $17,820,000 shall be for construction under section 8007(b) and shall remain available through September 30, 2009, $64,350,000 shall be for Federal property payments under section 8002, and $4,950,000, to remain available until expended, shall be for facilities maintenance under section 8008: Provided, That for purposes of computing the amount of a payment for an eligible local educational agency under section 8003(a) for school year 2007–2008, children enrolled in a school of such agency that would otherwise be eligible for payment under section 8003(a)(1)(B) of such Act, but due to the deployment of both parents or legal guardians, or a parent or legal guardian having sole custody of such children, or due to the death of a military parent or legal guardian while on active duty (so long as such children reside on Federal property as described in section 8003(a)(1)(B)), are no longer eligible under such section, shall be considered as eligible students under such section, provided such students remain in average daily attendance at a school in the same local educational agency they attended prior to their change in eligibility status.

SCHOOL IMPROVEMENT PROGRAMS

For carrying out school improvement activities authorized by title II, part B of title IV, subparts 6 and 9 of part D of title V, parts A and B of title VI, and parts B and C of title VII of the Elementary and Secondary Education Act of 1965 (''ESEA''); the McKinney-Vento Homeless Assistance Act; section 203 of the Educational Technical Assistance Act of 2002; the Compact of Free Association Amendments Act of 2003; and the Civil Rights Act of 1964, $5,411,758,000, of which $3,790,731,000 shall become available on July 1, 2008, and remain available through September 30, 2009, and of which $1,435,000,000 shall become available on October 1, 2008, and shall remain available through September 30, 2009, for academic year 2008–2009: Provided, That funds made available to carry out part B of title VII of the ESEA may be used for construction, renovation and modernization of any elementary school, secondary school, or structure related to an elementary school or secondary school, run by the Department of Education of the State of Hawaii, that serves a predominantly Native Hawaiian student body: Provided further, That from the funds referred to in the preceding proviso, not less than $1,250,000 shall be for a grant to the Department of Education of the State of Hawaii for the activities described in such proviso, and $1,250,000 shall be for a grant to the University of Hawaii School of Law for a Center of Excellence in Native Hawaiian law: Provided further, That funds made available to carry out part C of title VII of the ESEA may be used for construction: Provided further, That up to 100 percent of the funds available to a State educational agency under part D of title II of the ESEA may be used for subgrants described in section 2412(a)(2)(B) of such Act: Provided further, That $58,129,000 shall be available to carry out section 203 of the Educational Technical Assistance Act of 2002: Provided further, That $34,376,000 shall be available to carry out part D of title V of the ESEA: Provided further, That no funds appropriated under this heading may be used to carry out section 5494 under the ESEA: Provided further, That $18,001,000 shall be available to carry out the Supplemental Education Grants program for the Federated States of Micronesia and the Republic of the Marshall Islands: Provided further, That up to 5 percent of these amounts may be reserved by the Federated States of Micronesia and the Republic of the Marshall Islands to administer the Supplemental Education Grants programs and to obtain technical assistance, oversight and consultancy services in the administration of these grants and to reimburse the United States Departments of Labor, Health and Human Services, and Education for such services: Provided further, That $3,000,000 of the funds available for the Foreign Language Assistance Program shall be available for 5-year grants to local educational agencies that would work in partnership with one or more institutions of higher education to establish or expand articulated programs of study in languages critical to United States national security that will enable successful students to advance from elementary school through college to achieve a superior level of proficiency in those languages.

INDIAN EDUCATION

For expenses necessary to carry out, to the extent not otherwise provided, title VII, part A of the Elementary and Secondary Education Act of 1965, $124,000,000.

INNOVATION AND IMPROVEMENT

For carrying out activities authorized by part G of title I, subpart 5 of part A and parts C and D of title II, parts B, C, and D of title V, and section 1504 of the Elementary and Secondary Education Act of 1965 (''ESEA''), $1,010,084,000: Provided, That $9,821,000 shall be provided to the National Board for Professional Teaching Standards to carry out section 2151(c) of the ESEA: Provided further, That from funds for subpart 4, part C of title II, up to 3 percent shall be available to the Secretary for technical assistance and dissemination of information: Provided further, That $361,917,000 shall be available to carry out part D of title V of the ESEA: Provided further, That $103,293,000 of the funds for subpart 1, part D of title V of the ESEA shall be available for the projects and in the amounts specified in the statement of the managers on the conference report accompanying this Act: Provided further, That $99,000,000 of the funds for subpart 1 shall be for competitive grants to local educational agencies, including charter schools that are local educational agencies, or States, or partnerships of: (1) a local educational agency, a State, or both; and (2) at least one non-profit organization to develop and implement performance-based teacher and principal compensation systems in high-need schools: Provided further, That such performance-based compensation systems must consider gains in student academic achievement as well as classroom evaluations conducted multiple times during each school year among other factors and provide educators with incentives to take on additional responsibilities and leadership roles: Provided further, That up to 5 percent of such funds for competitive grants shall be available for technical assistance, training, peer review of applications, program outreach and evaluation activities: Provided further, That of the funds available for part B of title V, the Secretary shall use up to $24,783,000 to carry out activities under section 5205(b) and under subpart 2, and shall use not less than $190,000,000 to carry out other activities authorized under subpart 1.

SAFE SCHOOLS AND CITIZENSHIP EDUCATION

For carrying out activities authorized by subpart 3 of part C of title II, part A of title IV, and subparts 2, 3, and 10 of part D of title V of the Elementary and Secondary Education Act of 1965 (''ESEA''), $708,835,000, of which $300,000,000 shall become available on July 1, 2008, and remain available through September 30, 2009: Provided, That $300,000,000 shall be available for subpart 1 of part A of title IV and $222,519,000 shall be available for subpart 2 of part A of title IV, of which not less than $1,500,000, to remain available until expended, shall be for the Project School Emergency Response to Violence (''Project SERV'') program to provide education-related services to local educational agencies and to institutions of higher education in which the learning environment has been disrupted due to a violent or traumatic crisis: Provided further, That Project SERV funds appropriated in previous fiscal years may be used to provide services to local educational agencies and to institutions of higher education in which the learning environment has been disrupted due to a violent or traumatic crisis: Provided further, That $152,998,000 shall be available to carry out part D of title V of the ESEA: Provided further, That of the funds available to carry out subpart 3 of part C of title II, up to $12,072,000 may be used to carry out section 2345 and $3,025,000 shall be used by the Center for Civic Education to implement a comprehensive program to improve public knowledge, understanding, and support of the Congress and the State legislatures.

ENGLISH LANGUAGE ACQUISITION

For carrying out part A of title III of the Elementary and Secondary Education Act of 1965, $722,717,000, which shall become available on July 1, 2008, and shall remain available through September 30, 2009, except that 6.5 percent of such amount shall be available on October 1, 2007, and shall remain available through September 30, 2009, to carry out activities under section 3111(c)(1)(C).

SPECIAL EDUCATION

For carrying out the Individuals with Disabilities Education Act (''IDEA'') and the Special Olympics Sport and Empowerment Act of 2004, $12,357,999,000, of which $5,461,394,000 shall become available on July 1, 2008, and shall remain available through September 30, 2009, and of which $6,654,982,000 shall become available on October 1, 2008, and shall remain available through September 30, 2009, for academic year 2008–2009: Provided, That $13,000,000 shall be for Recording for the Blind and Dyslexic, Inc., to support activities under section 674(c)(1)(D) of the IDEA: Provided further, That $1,500,000 shall be for the recipient of funds provided by Public Law 105–78 under section 687(b)(2)(G) of the IDEA (as in effect prior to the enactment of

the Individuals with Disabilities Education Improvement Act of 2004) to provide information on diagnosis, intervention, and teaching strategies for children with disabilities: Provided further, That the amount for section 611(b)(2) of the IDEA shall be equal to the lesser of the amount available for that activity during fiscal year 2007, increased by the amount of inflation as specified in section 619(d)(2)(B) of the IDEA, or the percentage increase in the funds appropriated under section 611(i) of the IDEA: Provided further, That nothing in section 674(e) of the IDEA shall be construed to establish a private right of action against the National Instructional Materials Access Center for failure to perform the duties of such center or otherwise authorize a private right of action related to the performance of such center: Provided further, That $8,000,000 shall be available to support the 2009 Special Olympics World Winter Games.

REHABILITATION SERVICES AND DISABILITY RESEARCH

For carrying out, to the extent not otherwise provided, the Rehabilitation Act of 1973, the Assistive Technology Act of 1998 (''the AT Act''), and the Helen Keller National Center Act, $3,285,985,000, of which $1,000,000 shall be awarded to the American Academy of Orthotists and Prosthetists for activities that further the purposes of the grant received by the Academy for the period beginning October 1, 2003, including activities to meet the demand for orthotic and prosthetic provider services and improve patient care: Provided, That $3,242,000 of the funds for section 303 of the Rehabilitation Act of 1973 shall be available for the projects and in the amounts specified in the statement of the managers on the conference report accompanying this Act.

SPECIAL INSTITUTIONS FOR PERSONS WITH DISABILITIES

AMERICAN PRINTING HOUSE FOR THE BLIND

For carrying out the Act of March 3, 1879, $22,000,000.

NATIONAL TECHNICAL INSTITUTE FOR THE DEAF

For the National Technical Institute for the Deaf under titles I and II of the Education of the Deaf Act of 1986, $60,757,000, of which $1,705,000 shall be for construction and shall remain available until expended: Provided, That from the total amount available, the Institute may at its discretion use funds for the endowment program as authorized under section 207 of such Act.

GALLAUDET UNIVERSITY

For the Kendall Demonstration Elementary School, the Model Secondary School for the Deaf, and the partial support of Gallaudet University under titles I and II of the Education of the Deaf Act of 1986, $115,400,000: Provided, That from the total amount available, the University may at its discretion use funds for the endowment program as authorized under section 207.

CAREER, TECHNICAL, AND ADULT EDUCATION

For carrying out, to the extent not otherwise provided, the Carl D. Perkins Career and Technical Education Act of 2006, the Adult Education and Family Literacy Act, subpart 4 of part D of title V of the Elementary and Secondary Education Act of 1965 (''ESEA'') and title VIII–D of the Higher Education Amendments of 1998, $2,013,329,000, of which $1,218,252,000 shall become available on July 1, 2008, and shall remain available through September 30, 2009, and of which $791,000,000 shall become available on October 1, 2008, and shall remain available through September 30, 2009: Provided, That of the amount provided for Adult Education State Grants, $69,759,000 shall be made available for integrated English literacy and civics education services to immigrants and other limited English proficient populations: Provided further, That of the amount reserved for integrated English literacy and civics education, notwithstanding section 211 of the Adult Education and Family Literacy Act, 65 percent shall be allocated to States based on a State's absolute need as determined by calculating each State's share of a 10-year average of the United States Citizenship and Immigration Services data for immigrants admitted for legal permanent residence for the 10 most recent years, and 35 percent allocated to States that experienced growth as measured by the average of the 3 most recent years for which United States Citizenship and Immigration Services data for immigrants admitted for legal permanent residence are available, except that no State shall be allocated an amount less than $60,000: Provided further, That of the amounts made available for the Adult Education and Family Literacy Act, $7,000,000 shall be for national leadership activities under section 243 and $6,638,000 shall be for the National Institute for Literacy under section 242: Provided further, That $81,532,000 shall be available to support the activities authorized under subpart 4 of part D of title V of the ESEA, of which up to 5 percent shall become available October 1, 2007, and shall remain available through September 30, 2009, for evaluation, technical assistance, school networks, peer review of applications, and program outreach activities, and of which not less than 95 percent shall become available on July 1, 2008, and remain available through September 30, 2009, for grants to local educational agencies: Provided further, That funds made available to local educational agencies under this subpart shall be used only for activities related to establishing smaller learning communities within large high schools or small high schools that provide alternatives for students enrolled in large high schools.

STUDENT FINANCIAL ASSISTANCE

(INCLUDING RESCISSION)

For carrying out subparts 1, 3, and 4 of part A, part C and part E of title IV of the Higher Education Act of 1965, $16,379,883,000, which shall remain available through September 30, 2009.

The maximum Pell Grant for which a student shall be eligible during award year 2008–2009 shall be $4,435.

Of the unobligated funds available under section 401A(e)(1)(C) of the Higher Education Act of 1965, $525,000,000 are rescinded.

For an additional amount to carry out subpart 1 of part A of title IV of the Higher Education Act of 1965, $525,000,000, which shall remain available through September 30, 2009.

STUDENT AID ADMINISTRATION

For Federal administrative expenses to carry out part D of title I, and subparts 1, 3, and 4 of part A, and parts B, C, D, and E of title IV of the Higher Education Act of 1965, $708,216,000, which shall remain available until expended.

HIGHER EDUCATION

For carrying out, to the extent not otherwise provided, titles II, III, IV, V, VI, and VII of the Higher Education Act of 1965 (''HEA''), section 1543 of the Higher Education Amendments of 1992, the Mutual Educational and Cultural Exchange Act of 1961, title VIII of the Higher Education Amendments of 1998, part I of subtitle A of title VI of the America COMPETES Act, and section 117 of the Carl D. Perkins Career and Technical Education Act of 2006, $2,095,608,000: Provided, That $9,699,000, to remain available through September 30, 2009, shall be available to fund fellowships for academic year 2009–2010 under subpart 1 of part A of title VII of the HEA, under the terms and conditions of such subpart 1: Provided further, That $620,000 is for data collection and evaluation activities for programs under the HEA, including such activities needed to comply with the Government Performance and Results Act of 1993: Provided further, That notwithstanding any other provision of law, funds made available in this Act to carry out title VI of the HEA and section 102(b)(6) of the Mutual Educational and Cultural Exchange Act of 1961 may be used to support visits and study in foreign countries by individuals who are participating in advanced foreign language training and international studies in areas that are vital to United States national security and who plan to apply their language skills and knowledge of these countries in the fields of government, the professions, or international development: Provided further, That of the funds referred to in the preceding proviso up to 1 percent may be used for program evaluation, national outreach, and information dissemination activities: Provided further, That the funds provided for title II of the HEA shall be allocated notwithstanding section 210 of such Act: Provided further, That $104,399,000 of the funds for part B of title VII of the Higher Education Act of 1965 shall be available for the projects and in the amounts specified in the statement of the managers on the conference report accompanying this Act.

HOWARD UNIVERSITY

For partial support of Howard University, $237,392,000, of which not less than $3,526,000 shall be for a matching endowment grant pursuant to the Howard University Endowment Act (Public Law 98–480) and shall remain available until expended.

COLLEGE HOUSING AND ACADEMIC FACILITIES LOANS PROGRAM

For Federal administrative expenses to carry out activities related to existing facility loans pursuant to section 121 of the Higher Education Act of 1965, $481,000.

HISTORICALLY BLACK COLLEGE AND UNIVERSITY CAPITAL FINANCING PROGRAM ACCOUNT

For administrative expenses to carry out the Historically Black College and University Capital Financing Program entered into pursuant to part D of title III of the Higher Education Act of 1965, $188,000.

INSTITUTE OF EDUCATION SCIENCES

For carrying out activities authorized by the Education Sciences Reform Act of 2002, the National Assessment of Educational Progress Authorization Act, section 208 of the Educational Technical Assistance Act of 2002, and section 664 of the Individuals with Disabilities Education Act, $561,315,000, of which $293,155,000 shall be available until September 30, 2009.

DEPARTMENTAL MANAGEMENT

PROGRAM ADMINISTRATION

For carrying out, to the extent not otherwise provided, the Department of Education Organization Act, including rental of conference rooms in the District of Columbia and hire of three passenger motor vehicles, $420,698,000, of which $3,000,000, to remain available until expended, shall be for building alterations and related expenses for the move of Department staff to the Mary E. Switzer building in Washington, DC.

OFFICE FOR CIVIL RIGHTS

For expenses necessary for the Office for Civil Rights, as authorized by section 203 of the Department of Education Organization Act, $93,771,000.

OFFICE OF THE INSPECTOR GENERAL

For expenses necessary for the Office of the Inspector General, as authorized by section 212 of the Department of Education Organization Act, $53,239,000.

GENERAL PROVISIONS

SEC. 301. No funds appropriated in this Act may be used for the transportation of students or teachers (or for the purchase of equipment for such transportation) in order to overcome racial imbalance in any school or school system, or for the transportation of students or teachers (or for the purchase of equipment for such transportation) in order to carry out a plan of racial desegregation of any school or school system.

SEC. 302. None of the funds contained in this Act shall be used to require, directly or indirectly, the transportation of any student to a

school other than the school which is nearest the student's home, except for a student requiring special education, to the school offering such special education, in order to comply with title VI of the Civil Rights Act of 1964. For the purpose of this section an indirect requirement of transportation of students includes the transportation of students to carry out a plan involving the reorganization of the grade structure of schools, the pairing of schools, or the clustering of schools, or any combination of grade restructuring, pairing or clustering. The prohibition described in this section does not include the establishment of magnet schools.

SEC. 303. No funds appropriated in this Act may be used to prevent the implementation of programs of voluntary prayer and meditation in the public schools.

(TRANSFER OF FUNDS)

SEC. 304. Not to exceed 1 percent of any discretionary funds (pursuant to the Balanced Budget and Emergency Deficit Control Act of 1985) which are appropriated for the Department of Education in this Act may be transferred between appropriations, but no such appropriation shall be increased by more than 3 percent by any such transfer: Provided, That the transfer authority granted by this section shall be available only to meet emergency needs and shall not be used to create any new program or to fund any project or activity for which no funds are provided in this Act: Provided further, That the Committees on Appropriations of the House of Representatives and the Senate are notified at least 15 days in advance of any transfer.

SEC. 305. None of the funds made available in this Act may be used to promulgate, implement, or enforce any revision to the regulations in effect under section 496 of the Higher Education Act of 1965 on June 1, 2007, until legislation specifically requiring such revision is enacted.

SEC. 306. (a) MAINTENANCE OF INTEGRITY AND ETHICAL VALUES WITHIN DEPARTMENT OF EDUCATION.—Within 30 days after the enactment of this Act, the Secretary of Education shall implement procedures—

(1) to assess whether a covered individual or entity has a potential financial interest in, or bias towards, a product or service purchased with, or guaranteed or insured by, funds administered by the Department of Education or a contracted entity of the Department; and

(2) to disclose the existence of any such potential financial interest or bias.

(b) REVIEW BY INSPECTOR GENERAL.—

(1) Within 30 days after the implementation of the procedures described in subsection (a), the Inspector General of the Department of Education shall report to the Committees on Appropriations of the House of Representatives and the Senate on the adequacy of such procedures.

(2) Within 1 year, the Inspector General shall conduct at least 1 audit to ensure that such procedures are properly implemented and are adequate to uncover and disclose the existence of potential financial interests or bias described in subsection (a).

(3) The Inspector General shall report to such Committees any recommendations for modifications to such procedures that the Inspector General determines are necessary to uncover and disclose the existence of such potential financial interests or bias.

(c) DEFINITION.—For purposes of this section, the term ''covered individual or entity'' means—

(1) an officer or professional employee of the Department of Education;

(2) a contractor or subcontractor of the Department, or an individual hired by the contracted entity;

(3) a member of a peer review panel of the Department; or

(4) a consultant or advisor to the Department.

SEC. 307. (a) Notwithstanding section 8013(9)(B) of the Elementary and Secondary Education Act of 1965, North Chicago Community Unit School District 187, North Shore District 112, and Township High School District 113 in Lake County, Illinois, and Glenview Public School District 34 and Glenbrook High School District 225 in Cook County, Illinois, shall be considered local educational agencies as such term is used in and for purposes of title VIII of such Act.

(b) Notwithstanding any other provision of law, federally connected children (as determined under section 8003(a) of the Elementary and Secondary Education Act of 1965) who are in attendance in the North Shore District 112, Township High School District 113, Glenview Public School District 34, and Glenbrook High School District 225 described in subsection (a), shall be considered to be in attendance in the North Chicago Community Unit School District 187 described in subsection (a) for purposes of computing the amount that the North Chicago Community Unit School District 187 is eligible to receive under subsection (b) or (d) of such section if—

(1) such school districts have entered into an agreement for such students to be so considered and for the equitable apportionment among all such school districts of any amount received by the North Chicago Community Unit School District 187 under such section; and

(2) any amount apportioned among all such school districts pursuant to paragraph (1) is used by such school districts only for the direct provision of educational services.

SEC. 308. Prior to January 1, 2008, the Secretary of Education may not terminate any voluntary flexible agreement under section 428A of the Higher Education Act of 1965 that existed on October 1, 2007. With respect to an entity with which the Secretary of Education had a voluntary flexible agreement under section 428A of the Higher Education Act of 1965 on October 1, 2007 that is not cost neutral, if the Secretary terminates such agreement on or after January 1, 2008, the Secretary of Education shall, not later than March 31, 2008, negotiate to enter, and enter, into a new voluntary flexible agreement with such entity so that the agreement is cost neutral, unless such entity does not want to enter into such agreement.

SEC. 309. Notwithstanding section 102(a)(4)(A) of the Higher Education Act of 1965, the Secretary of Education shall not take into account a bankruptcy petition filed in the United States Bankruptcy Court for the Northern District of New York on February 21, 2001, in determining whether a nonprofit educational institution that is a subsidiary of an entity that filed such petition meets the definition of an ''institution of higher education'' under section 102 of that Act.

This title may be cited as the ''Department of Education Appropriations Act, 2008''.

TITLE IV

RELATED AGENCIES

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

SALARIES AND EXPENSES

For expenses necessary of the Committee for Purchase From People Who Are Blind or Severely Disabled established by Public Law 92–28, $4,994,000.

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

OPERATING EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses for the Corporation for National and Community Service to carry out the Domestic Volunteer Service Act of 1973 (''1973 Act'') and the National and Community Service Act of 1990 (''1990 Act''), $798,065,000, of which $313,054,000 is to carry out the 1973 Act and $485,011,000 is to carry out the 1990 Act: Provided, That up to 1 percent of program grant funds may be used to defray the costs of conducting grant application reviews, including the use of outside peer reviewers and electronic management of the grants cycle: Provided further, That none of the funds made available under this heading for activities authorized by section 122 and part E of title II of the 1973 Act shall be used to provide stipends or other monetary incentives to program participants or volunteer leaders whose incomes exceed the income guidelines in subsections 211(e) and 213(b) of the 1973 Act: Provided further, That notwithstanding subtitle H of title I of the 1990 Act, none of the funds provided for quality and innovation activities shall be used to support salaries and related expenses (including travel) attributable to Corporation for National and Community Service employees: Provided further, That of the amounts provided under this heading: (1) not less than $126,121,000, to remain available until expended, to be transferred to the National Service Trust for educational awards authorized under subtitle D of title I of the 1990 Act: Provided further, That in addition to these funds, the Corporation may transfer funds from the amount provided for AmeriCorps grants under the National Service Trust Program, to the National Service Trust authorized under subtitle D of title I of the 1990 Act, upon determination that such transfer is necessary to support the activities of national service participants and after notice is transmitted to the Congress; (2) not more than $55,000,000 of funding provided for grants under the National Service Trust program authorized under subtitle C of title I of the 1990 Act may be used to administer, reimburse, or support any national service program authorized under section 129(d)(2) of such Act; (3) $12,000,000 shall be to provide assistance to State commissions on national and community service, under section 126(a) of the 1990 Act and notwithstanding section 501(a)(4) of the 1990 Act; and (4) not less than $5,000,000 shall be for the acquisition, renovation, equipping and startup costs for a campus located in Vinton, Iowa and a campus in Vicksburg, Mississippi to carry out subtitle G of title I of the 1990 Act.

SALARIES AND EXPENSES

For necessary expenses of administration as provided under section 501(a)(4) of the National and Community Service Act of 1990 and under section 504(a) of the Domestic Volunteer Service Act of 1973, including payment of salaries, authorized travel, hire of passenger motor vehicles, the rental of conference rooms in the District of Columbia, the employment of experts and consultants authorized under 5 U.S.C. 3109, and not to exceed $2,500 for official reception and representation expenses, $68,964,000.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the Inspector General Act of 1978, $6,900,000.

ADMINISTRATIVE PROVISIONS

SEC. 401. Notwithstanding any other provision of law, the term ''qualified student loan'' with respect to national service education awards shall mean any loan determined by an institution of higher education to be necessary to cover a student's cost of attendance at such institution and made, insured, or guaranteed directly to a student by a State agency, in addition to other meanings under section 148(b)(7) of the National and Community Service Act.

SEC. 402. Notwithstanding any other provision of law, funds made available under section 129(d)(5)(B) of the National and Community Service Act of 1990 to assist entities in placing applicants who are individuals with disabilities may be provided to any entity that receives a grant under section 121 of the Act.

SEC. 403. The Inspector General of the Corporation for National and Community Service shall conduct random audits of the grantees that administer activities under the AmeriCorps programs and shall levy sanctions in accordance with standard Inspector General audit resolution procedures which include, but are not limited to, debarment of any grantee (or successor in interest or any entity with substantially the same person or persons in control) that has been

determined to have committed any substantial violation of the requirements of the AmeriCorps programs, including any grantee that has been determined to have violated the prohibition of using Federal funds to lobby the Congress: Provided, That the Inspector General shall obtain reimbursements in the amount of any misused funds from any grantee that has been determined to have committed any substantial violation of the requirements of the AmeriCorps programs.

SEC. 404. The Corporation for National and Community Service shall make any significant changes to program requirements, service delivery or policy only through public notice and comment rulemaking. For fiscal year 2008, during any grant selection process, an officer or employee of the Corporation shall not knowingly disclose any covered grant selection information regarding such selection, directly or indirectly, to any person other than an officer or employee of the Corporation that is authorized by the Corporation to receive such information.

SEC. 405. Professional Corps programs described in section 122(a)(8) of the National and Community Service Act of 1990 may apply to the Corporation for a waiver of application of section 140(c)(2).

SEC. 406. Notwithstanding section 1342 of title 31, United States Code, the Corporation may solicit and accept the services of organizations and individuals (other than participants) to assist the Corporation in carrying out the duties of the Corporation under the national service laws: Provided, That an individual who provides services under this section shall be subject to the same protections and limitations as volunteers under section 196(a) of the National and Community Service Act of 1990.

SEC. 407. Organizations operating projects under the AmeriCorps Education Awards Program shall do so without regard to the requirements of sections 121(d) and (e), 131(e), 132, and 140(a), (d), and (e) of the National and Community Service Act of 1990.

SEC. 408. AmeriCorps programs receiving grants under the National Service Trust program shall meet an overall minimum share requirement of 24 percent for the first three years that they receive AmeriCorps funding, and thereafter shall meet the overall minimum share requirement as provided in section 2521.60 of title 45, Code of Federal Regulations, without regard to the operating costs match requirement in section 121(e) or the member support Federal share limitations in section 140 of the National and Community Service Act of 1990, and subject to partial waiver consistent with section 2521.70 of title 45, Code of Federal Regulations.

CORPORATION FOR PUBLIC BROADCASTING

For payment to the Corporation for Public Broadcasting, as authorized by the Communications Act of 1934, an amount which shall be available within limitations specified by that Act, for the fiscal year 2010, $420,000,000: Provided, That no funds made available to the Corporation for Public Broadcasting by this Act shall be used to pay for receptions, parties, or similar forms of entertainment for Government officials or employees: Provided further, That none of the funds contained in this paragraph shall be available or used to aid or support any program or activity from which any person is excluded, or is denied benefits, or is discriminated against, on the basis of race, color, national origin, religion, or sex: Provided further, That no funds made available to the Corporation for Public Broadcasting by this Act shall be used to apply any political test or qualification in selecting, appointing, promoting, or taking any other personnel action with respect to officers, agents, and employees of the Corporation: Provided further, That for fiscal year 2008, in addition to the amounts provided above, $29,700,000 shall be for costs related to digital program production, development, and distribution, associated with the transition of public broadcasting to digital broadcasting, to be awarded as determined by the Corporation in consultation with public radio and television licensees or permittees, or their designated representatives: Provided further, That for fiscal year 2008, in addition to the amounts provided above, $26,750,000 is available pursuant to section 396(k)(10) of the Communications Act of 1934 for replacement and upgrade of the public radio interconnection system: Provided further, That none of the funds made available to the Corporation for Public Broadcasting by this Act, the Continuing Appropriations Resolution, 2007 (Public Law 110–5), or the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 2006 (Public Law 109–149), shall be used to support the Television Future Fund or any similar purpose.

FEDERAL MEDIATION AND CONCILIATION SERVICE

SALARIES AND EXPENSES

For expenses necessary for the Federal Mediation and Conciliation Service to carry out the functions vested in it by the Labor Management Relations Act, 1947, including hire of passenger motor vehicles; for expenses necessary for the Labor-Management Cooperation Act of 1978; and for expenses necessary for the Service to carry out the functions vested in it by the Civil Service Reform Act, Public Law 95–454, $44,450,000, including $650,000 to remain available through September 30, 2009, for activities authorized by the Labor-Management Cooperation Act of 1978: Provided, That notwithstanding 31 U.S.C. 3302, fees charged, up to full-cost recovery, for special training activities and other conflict resolution services and technical assistance, including those provided to foreign governments and international organizations, and for arbitration services shall be credited to and merged with this account, and shall remain available until expended: Provided further, That fees for arbitration services shall be available only for education, training, and professional development of the agency workforce: Provided further, That the Director of the Service is authorized to accept and use on behalf of the United States gifts of services and real, personal, or other property in the aid of any projects or functions within the Director's jurisdiction.

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

SALARIES AND EXPENSES

For expenses necessary for the Federal Mine Safety and Health Review Commission, $8,096,000.

INSTITUTE OF MUSEUM AND LIBRARY SERVICES

OFFICE OF MUSEUM AND LIBRARY SERVICES: GRANTS AND ADMINISTRATION

For carrying out the Museum and Library Services Act of 1996 and the National Museum of African American History and Culture Act, $277,131,000: Provided, That funds may be made available for support through inter-agency agreement or grant to commemorative Federal commissions that support museum and library activities, in partnership with libraries and museums that are eligible for funding under programs carried out by the Institute of Museum and Library Services.

MEDICARE PAYMENT ADVISORY COMMISSION

SALARIES AND EXPENSES

For expenses necessary to carry out section 1805 of the Social Security Act, $10,748,000, to be transferred to this appropriation from the Federal Hospital Insurance and the Federal Supplementary Medical Insurance Trust Funds.

NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE

SALARIES AND EXPENSES

For close out activities of the National Commission on Libraries and Information Science, established by the Act of July 20, 1970 (Public Law 91–345, as amended), $400,000.

NATIONAL COUNCIL ON DISABILITY

SALARIES AND EXPENSES

For expenses necessary for the National Council on Disability as authorized by title IV of the Rehabilitation Act of 1973, $3,113,000.

NATIONAL LABOR RELATIONS BOARD

SALARIES AND EXPENSES

For expenses necessary for the National Labor Relations Board to carry out the functions vested in it by the Labor-Management Relations Act, 1947, and other laws, $256,988,000: Provided, That no part of this appropriation shall be available to organize or assist in organizing agricultural laborers or used in connection with investigations, hearings, directives, or orders concerning bargaining units composed of agricultural laborers as referred to in section 2(3) of the Act of July 5, 1935, and as amended by the Labor-Management Relations Act, 1947, and as defined in section 3(f) of the Act of June 25, 1938, and including in said definition employees engaged in the maintenance and operation of ditches, canals, reservoirs, and waterways when maintained or operated on a mutual, nonprofit basis and at least 95 percent of the water stored or supplied thereby is used for farming purposes.

NATIONAL MEDIATION BOARD

SALARIES AND EXPENSES

For expenses necessary to carry out the provisions of the Railway Labor Act, including emergency boards appointed by the President, $12,992,000, of which $750,000 shall be for arbitrator salaries and expenses pursuant to section 153(1).

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

SALARIES AND EXPENSES

For expenses necessary for the Occupational Safety and Health Review Commission, $10,696,000.

RAILROAD RETIREMENT BOARD

DUAL BENEFITS PAYMENTS ACCOUNT

For payment to the Dual Benefits Payments Account, authorized under section 15(d) of the Railroad Retirement Act of 1974, $79,000,000, which shall include amounts becoming available in fiscal year 2008 pursuant to section 224(c)(1)(B) of Public Law 98–76; and in addition, an amount, not to exceed 2 percent of the amount provided herein, shall be available proportional to the amount by which the product of recipients and the average benefit received exceeds the amount available for payment of vested dual benefits: Provided, That the total amount provided herein shall be credited in 12 approximately equal amounts on the first day of each month in the fiscal year.

FEDERAL PAYMENTS TO THE RAILROAD RETIREMENT ACCOUNTS

For payment to the accounts established in the Treasury for the payment of benefits under the Railroad Retirement Act for interest earned on unnegotiated checks, $150,000, to remain available through September 30, 2009, which shall be the maximum amount available for payment pursuant to section 417 of Public Law 98–76.

LIMITATION ON ADMINISTRATION

For necessary expenses for the Railroad Retirement Board for administration of the Railroad Retirement Act and the Railroad Unemployment Insurance Act, $103,694,000, to be derived in such amounts as determined by the Board from the railroad retirement accounts and from moneys credited to the railroad unemployment insurance administration fund.

LIMITATION ON THE OFFICE OF INSPECTOR GENERAL

For expenses necessary for the Office of Inspector General for audit, investigatory and review activities, as authorized by the Inspector General Act of 1978, not more than $7,803,000, to be derived from the railroad retirement accounts

and railroad unemployment insurance account: Provided, That none of the funds made available in any other paragraph of this Act may be transferred to the Office; used to carry out any such transfer; used to provide any office space, equipment, office supplies, communications facilities or services, maintenance services, or administrative services for the Office; used to pay any salary, benefit, or award for any personnel of the Office; used to pay any other operating expense of the Office; or used to reimburse the Office for any service provided, or expense incurred, by the Office: Provided further, That funds made available under the heading in this Act, or subsequent Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Acts, may be used for any audit, investigation, or review of the Medicare Program.

SOCIAL SECURITY ADMINISTRATION

PAYMENTS TO SOCIAL SECURITY TRUST FUNDS

For payment to the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund, as provided under sections 201(m), 217(g), 228(g), and 1131(b)(2) of the Social Security Act, $28,140,000.

SUPPLEMENTAL SECURITY INCOME PROGRAM

For carrying out titles XI and XVI of the Social Security Act, section 401 of Public Law 92–603, section 212 of Public Law 93–66, as amended, and section 405 of Public Law 95–216, including payment to the Social Security trust funds for administrative expenses incurred pursuant to section 201(g)(1) of the Social Security Act, $27,014,000,000, to remain available until expended: Provided, That any portion of the funds provided to a State in the current fiscal year and not obligated by the State during that year shall be returned to the Treasury.

For making, after June 15 of the current fiscal year, benefit payments to individuals under title XVI of the Social Security Act, for unanticipated costs incurred for the current fiscal year, such sums as may be necessary.

For making benefit payments under title XVI of the Social Security Act for the first quarter of fiscal year 2009, $14,800,000,000, to remain available until expended.

LIMITATION ON ADMINISTRATIVE EXPENSES

For necessary expenses, including the hire of two passenger motor vehicles, and not to exceed $15,000 for official reception and representation expenses, not more than $9,522,953,000 may be expended, as authorized by section 201(g)(1) of the Social Security Act, from any one or all of the trust funds referred to therein: Provided, That not less than $2,000,000 shall be for the Social Security Advisory Board: Provided further, That unobligated balances of funds provided under this paragraph at the end of fiscal year 2008 not needed for fiscal year 2008 shall remain available until expended to invest in the Social Security Administration information technology and telecommunications hardware and software infrastructure, including related equipment and non-payroll administrative expenses associated solely with this information technology and telecommunications infrastructure: Provided further, That reimbursement to the trust funds under this heading for expenditures for official time for employees of the Social Security Administration pursuant to section 7131 of title 5, United States Code, and for facilities or support services for labor organizations pursuant to policies, regulations, or procedures referred to in section 7135(b) of such title shall be made by the Secretary of the Treasury, with interest, from amounts in the general fund not otherwise appropriated, as soon as possible after such expenditures are made.

From funds provided under the first paragraph, not less than $263,970,000 shall be available for conducting continuing disability reviews under titles II and XVI of the Social Security Act and for conducting redeterminations of eligibility under title XVI of the Social Security Act.

In addition to amounts made available above, and subject to the same terms and conditions, $213,000,000, for additional continuing disability reviews and redeterminations of eligibility.

In addition, $135,000,000 to be derived from administration fees in excess of $5.00 per supplementary payment collected pursuant to section 1616(d) of the Social Security Act or section 212(b)(3) of Public Law 93–66, which shall remain available until expended. To the extent that the amounts collected pursuant to such sections in fiscal year 2008 exceed $135,000,000, the amounts shall be available in fiscal year 2009 only to the extent provided in advance in appropriations Acts.

In addition, up to $1,000,000 to be derived from fees collected pursuant to section 303(c) of the Social Security Protection Act (Public Law 108–203), which shall remain available until expended.

OFFICE OF INSPECTOR GENERAL

(INCLUDING TRANSFER OF FUNDS)

For expenses necessary for the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, $27,000,000, together with not to exceed $68,047,000, to be transferred and expended as authorized by section 201(g)(1) of the Social Security Act from the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund.

In addition, an amount not to exceed 3 percent of the total provided in this appropriation may be transferred from the ''Limitation on Administrative Expenses'', Social Security Administration, to be merged with this account, to be available for the time and purposes for which this account is available: Provided, That notice of such transfers shall be transmitted promptly to the Committees on Appropriations of the House of Representatives and the Senate.

TITLE V

GENERAL PROVISIONS

SEC. 501. The Secretaries of Labor, Health and Human Services, and Education are authorized to transfer unexpended balances of prior appropriations to accounts corresponding to current appropriations provided in this Act. Such transferred balances shall be used for the same purpose, and for the same periods of time, for which they were originally appropriated.

SEC. 502. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 503. (a) No part of any appropriation contained in this Act shall be used, other than for normal and recognized executive-legislative relationships, for publicity or propaganda purposes, for the preparation, distribution, or use of any kit, pamphlet, booklet, publication, radio, television, or video presentation designed to support or defeat legislation pending before the Congress or any State legislature, except in presentation to the Congress or any State legislature itself.

(b) No part of any appropriation contained in this Act shall be used to pay the salary or expenses of any grant or contract recipient, or agent acting for such recipient, related to any activity designed to influence legislation or appropriations pending before the Congress or any State legislature.

SEC. 504. The Secretaries of Labor and Education are authorized to make available not to exceed $28,000 and $20,000, respectively, from funds available for salaries and expenses under titles I and III, respectively, for official reception and representation expenses; the Director of the Federal Mediation and Conciliation Service is authorized to make available for official reception and representation expenses not to exceed $5,000 from the funds available for ''Federal Mediation and Conciliation Service, Salaries and expenses''; and the Chairman of the National Mediation Board is authorized to make available for official reception and representation expenses not to exceed $5,000 from funds available for ''National Mediation Board, Salaries and expenses''.

SEC. 505. Notwithstanding any other provision of this Act, no funds appropriated in this Act shall be used to carry out any program of distributing sterile needles or syringes for the hypodermic injection of any illegal drug.

SEC. 506. When issuing statements, press releases, requests for proposals, bid solicitations and other documents describing projects or programs funded in whole or in part with Federal money, all grantees receiving Federal funds included in this Act, including but not limited to State and local governments and recipients of Federal research grants, shall clearly state—

(1) the percentage of the total costs of the program or project which will be financed with Federal money;

(2) the dollar amount of Federal funds for the project or program; and

(3) percentage and dollar amount of the total costs of the project or program that will be financed by non-governmental sources.

SEC. 507. (a) None of the funds appropriated in this Act, and none of the funds in any trust fund to which funds are appropriated in this Act, shall be expended for any abortion.

(b) None of the funds appropriated in this Act, and none of the funds in any trust fund to which funds are appropriated in this Act, shall be expended for health benefits coverage that includes coverage of abortion.

(c) The term ''health benefits coverage'' means the package of services covered by a managed care provider or organization pursuant to a contract or other arrangement.

SEC. 508. (a) The limitations established in the preceding section shall not apply to an abortion—

(1) if the pregnancy is the result of an act of rape or incest; or

(2) in the case where a woman suffers from a physical disorder, physical injury, or physical illness, including a life-endangering physical condition caused by or arising from the pregnancy itself, that would, as certified by a physician, place the woman in danger of death unless an abortion is performed.

(b) Nothing in the preceding section shall be construed as prohibiting the expenditure by a State, locality, entity, or private person of State, local, or private funds (other than a State's or locality's contribution of Medicaid matching funds).

(c) Nothing in the preceding section shall be construed as restricting the ability of any managed care provider from offering abortion coverage or the ability of a State or locality to contract separately with such a provider for such coverage with State funds (other than a State's or locality's contribution of Medicaid matching funds).

(d)(1) None of the funds made available in this Act may be made available to a Federal agency or program, or to a State or local government, if such agency, program, or government subjects any institutional or individual health care entity to discrimination on the basis that the health care entity does not provide, pay for, provide coverage of, or refer for abortions.

(2) In this subsection, the term ''health care entity'' includes an individual physician or other health care professional, a hospital, a provider-sponsored organization, a health maintenance organization, a health insurance plan, or any other kind of health care facility, organization, or plan.

SEC. 509. (a) None of the funds made available in this Act may be used for—

(1) the creation of a human embryo or embryos for research purposes; or

(2) research in which a human embryo or embryos are destroyed, discarded, or knowingly subjected to risk of injury or death greater than that allowed for research on fetuses in utero under 45 CFR 46.204(b) and section 498(b) of the Public Health Service Act (42 U.S.C. 289g(b)).

(b) For purposes of this section, the term ''human embryo or embryos'' includes any organism, not protected as a human subject under 45 CFR 46 as of the date of the enactment of this Act, that is derived by fertilization, parthenogenesis, cloning, or any other means from one or more human gametes or human diploid cells.

SEC. 510. (a) None of the funds made available in this Act may be used for any activity that promotes the legalization of any drug or other substance included in schedule I of the schedules of controlled substances established under section 202 of the Controlled Substances Act (21 U.S.C. 812) except for normal and recognized executive-congressional communications.

(b) The limitation in subsection (a) shall not apply when there is significant medical evidence of a therapeutic advantage to the use of such drug or other substance or that federally sponsored clinical trials are being conducted to determine therapeutic advantage.

SEC. 511. None of the funds made available in this Act may be used to promulgate or adopt any final standard under section 1173(b) of the Social Security Act (42 U.S.C. 1320d–2(b)) providing for, or providing for the assignment of, a unique health identifier for an individual (except in an individual's capacity as an employer or a health care provider), until legislation is enacted specifically approving the standard.

SEC. 512. None of the funds made available in this Act may be obligated or expended to enter into or renew a contract with an entity if—

(1) such entity is otherwise a contractor with the United States and is subject to the requirement in section 4212(d) of title 38, United States Code, regarding submission of an annual report to the Secretary of Labor concerning employment of certain veterans; and

(2) such entity has not submitted a report as required by that section for the most recent year for which such requirement was applicable to such entity.

SEC. 513. None of the funds made available in this Act may be transferred to any department, agency, or instrumentality of the United States Government, except pursuant to a transfer made by, or transfer authority provided in, this Act or any other appropriation Act.

SEC. 514. None of the funds made available by this Act to carry out the Library Services and Technology Act may be made available to any library covered by paragraph (1) of section 224(f) of such Act, as amended by the Children's Internet Protection Act, unless such library has made the certifications required by paragraph (4) of such section.

SEC. 515. None of the funds made available by this Act to carry out part D of title II of the Elementary and Secondary Education Act of 1965 may be made available to any elementary or secondary school covered by paragraph (1) of section 2441(a) of such Act, as amended by the Children's Internet Protection Act and the No Child Left Behind Act, unless the local educational agency with responsibility for such covered school has made the certifications required by paragraph (2) of such section.

SEC. 516. (a) None of the funds provided under this Act, or provided under previous appropriations Acts to the agencies funded by this Act that remain available for obligation or expenditure in fiscal year 2008, or provided from any accounts in the Treasury of the United States derived by the collection of fees available to the agencies funded by this Act, shall be available for obligation or expenditure through a reprogramming of funds that—

(1) creates new programs;

(2) eliminates a program, project, or activity;

(3) increases funds or personnel by any means for any project or activity for which funds have been denied or restricted;

(4) relocates an office or employees;

(5) reorganizes or renames offices;

(6) reorganizes programs or activities; or

(7) contracts out or privatizes any functions or activities presently performed by Federal employees;

unless the Committees on Appropriations of the House of Representatives and the Senate are notified 15 days in advance of such reprogramming or of an announcement of intent relating to such reprogramming, whichever occurs earlier.

(b) None of the funds provided under this Act, or provided under previous appropriations Acts to the agencies funded by this Act that remain available for obligation or expenditure in fiscal year 2008, or provided from any accounts in the Treasury of the United States derived by the collection of fees available to the agencies funded by this Act, shall be available for obligation or expenditure through a reprogramming of funds in excess of $500,000 or 10 percent, whichever is less, that—

(1) augments existing programs, projects (including construction projects), or activities;

(2) reduces by 10 percent funding for any existing program, project, or activity, or numbers of personnel by 10 percent as approved by Congress; or

(3) results from any general savings from a reduction in personnel which would result in a change in existing programs, activities, or projects as approved by Congress;

unless the Committees on Appropriations of the House of Representatives and the Senate are notified 15 days in advance of such reprogramming or of an announcement of intent relating to such reprogramming, whichever occurs earlier.

SEC. 517. (a) None of the funds made available in this Act may be used to request that a candidate for appointment to a Federal scientific advisory committee disclose the political affiliation or voting history of the candidate or the position that the candidate holds with respect to political issues not directly related to and necessary for the work of the committee involved.

(b) None of the funds made available in this Act may be used to disseminate scientific information that is deliberately false or misleading.

SEC. 518. Within 45 days of enactment of this Act, each department and related agency funded through this Act shall submit an operating plan that details at the program, project, and activity level any funding allocations for fiscal year 2008 that are different than those specified in this Act, the accompanying detailed table in the committee report, or the fiscal year 2008 budget request.

SEC. 519. None of the funds made available by this Act may be used to carry out the evaluation of the Upward Bound program described in the absolute priority for Upward Bound Program participant selection and evaluation published by the Department of Education in the Federal Register on September 22, 2006 (71 Fed. Reg. 55447 et seq.).

SEC. 520. None of the funds in this Act may be used to employ workers described in section 274A(h)(3) of the Immigration and Nationality Act.

SEC. 521. The Secretaries of Labor, Health and Human Services, and Education shall each prepare and submit to the Committees on Appropriations of the House of Representatives and the Senate a report on the number and amount of contracts, grants, and cooperative agreements exceeding $100,000 in value and awarded by the Department on a non-competitive basis during each quarter of fiscal year 2008, but not to include grants awarded on a formula basis. Such report shall include the name of the contractor or grantee, the amount of funding, and the governmental purpose. Such report shall be transmitted to the Committees within 30 days after the end of the quarter for which the report is submitted.

SEC. 522. Not later than 30 days after the date of enactment of this Act, the Departments, agencies, and commissions funded under this Act, shall establish and maintain on the homepages of their Internet websites—

(1) a direct link to the Internet websites of their Offices of Inspectors General; and

(2) a mechanism on the Offices of Inspectors General website by which individuals may anonymously report cases of waste, fraud, or abuse with respect to those Departments, agencies, and commissions.

SEC. 523. None of the funds appropriated or otherwise made available by this Act may be used to enter into a contract in an amount greater than $5,000,000 or to award a grant in excess of such amount unless the prospective contractor or grantee certifies in writing to the agency awarding the contract or grant that, to the best of its knowledge and belief, the contractor or grantee has filed all Federal tax returns required during the three years preceding the certification, has not been convicted of a criminal offense under the Internal Revenue Code of 1986, and has not, more than 90 days prior to certification, been notified of any unpaid Federal tax assessment for which the liability remains unsatisfied, unless the assessment is the subject of an installment agreement or offer in compromise that has been approved by the Internal Revenue Service and is not in default, or the assessment is the subject of a non-frivolous administrative or judicial proceeding.

SEC. 524. Section 1848(l)(2)(A) of the Social Security Act, as amended by section 6 of the TMA, Abstinence Education, and QI Programs Extension Act of 2007 (Public Law 110–90), is amended by striking ''$1,350,000,000'' and inserting ''$1,200,000,000, but in no case shall expenditures from the Fund in fiscal year 2008 exceed $650,000,000'' in the first sentence.

SEC. 525. Iraqi and Afghan aliens granted special immigrant status under section 101(a)(27) of the Immigration and Nationality Act shall be eligible for resettlement assistance, entitlement programs, and other benefits available to refugees admitted under section 207 of such Act for a period not to exceed 6 months.

SEC. 526. None of the funds appropriated by this Act may be used by the Commissioner of Social Security or the Social Security Administration to pay the compensation of employees of the Social Security Administration to administer Social Security benefit payments, under any agreement between the United States and Mexico establishing totalization arrangements between the social security system established by title II of the Social Security Act and the social security system of Mexico, which would not otherwise be payable but for such agreement.

SEC. 527. None of the funds appropriated in this Act shall be expended or obligated by the Commissioner of Social Security, for purposes of administering Social Security benefit payments under title II of the Social Security Act, to process claims for credit for quarters of coverage based on work performed under a social security account number that was not the claimant's number which is an offense prohibited under section 208 of the Social Security Act.

This Act may be cited as the ''Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 2008''.

ENCOURAGING ALL EMPLOYERS TO TARGET VETERANS FOR RECRUITMENT AND HIRING

Mr. DURBIN. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of S. Res. 373, which was submitted earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 373) encouraging all employers to target veterans for recruitment and to provide preference in hiring qualified veterans.

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

Mr. AKAKA. Mr. President, I am pleased to join my distinguished colleague, Senator SMITH, in honoring our Nation's veterans through passage of S. Res. 365. We are days away from honoring veterans for their sacrifices with a national day of recognition on November 11. Our resolution would urge the President to order a proclamation calling upon employers to make special efforts to recruit and hire veterans this Veterans Day.

As chairman of the Senate Veterans' Affairs Committee, I am well acquainted with the employment issues facing veterans, members of the Guard and Reserves, and their families as they seek to move from the military to the civilian workforce. Making these transitions is never easy, but for younger veterans it can be particularly difficult. For members of the National Guard and Reserves, the return to a job they previously held may be challenging for a variety of reasons. For family members, the uncertainty of multiple and extended deployments poses different obstacles. Finally, the obstacles facing those who are disabled during their service can sometimes seem overwhelming. The needs of these individuals deserve our utmost attention and resources.

Despite these problems and challenges, veterans make good employees. They know how to work, and they bring with them a wealth of expertise and experience. I believe the employment data supports my belief since rates of unemployment for veterans generally are lower than their non-veteran counterparts. However, the rate of unemployment for younger veterans and those recently separated from active duty tends to be higher than their non-veteran peers.

This resolution would highlight the actions that employers can take to honor the sacrifices of our Nation's veterans and allow them to use the skills learned while in service to their country. Veterans have made sacrifices serving our Nation. When they come back from that service, it is our responsibility as legislators to aid them in returning to the civilian world. Having a job can be one of the greatest steps a returning servicemember can make in successfully reintegrating into civilian society.

I am honored to stand with my colleague in honoring the veterans of the Nation, and I urge my colleagues to join us. It would be my hope that employers around the country take up this proclamation as a best practice and continue to look at veterans as their first choice when making hiring decisions.

Mr. DURBIN. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motions to reconsider be laid upon the table, and that any statements relating thereto be printed in the RECORD.

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

The resolution (S. Res. 373) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 373

Whereas the people of the United States have sincere appreciation and respect for the individuals who serve in the Armed Forces;

Whereas in order to recognize their sacrifices, including time out from their civilian careers while serving in the Armed Forces, Congress enacted the Veterans' Preference Act of 1944 to restore veterans to a more favorable competitive position for Federal Government employment;

Whereas, although veterans acquire skills and qualities during their military service that make them ideal candidates for employment, some veterans need assistance in readjusting to civilian life, including some young veterans who experience high unemployment rates;

Whereas it is acknowledged that the dignity, pride, and satisfaction of a civilian job are essential to the smooth and full reintegration into civilian life of those who have answered our Nation's call to arms; and

Whereas all citizens and all employers benefit from the service of members of the Armed Forces and thus bear some responsibility to assist in the reintegration of former servicemembers into civilian life: Now, therefore, be it

Resolved, That the Senate—

(1) urges all employers, private sector as well as State, county, and local government, to target veterans for recruitment and to afford qualified veterans hiring preference similar to the benefits provided by chapter 33 of title 5, United States Code, to preference eligibles, as defined in section 2108 of such title; and

SUPPORTING DESIGNATION OF A NATIONAL VETERANS HISTORY PROJECT WEEK

Mr. DURBIN. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 374, which was submitted earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 374) expressing support for designation of a National Veterans History Project Week to encourage public participation in a nationwide project that collects and preserves the stories of the men and women who served our Nation in times of war and conflict.

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

Mr. DURBIN. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motions to reconsider be laid upon the table, and that any statements relating thereto be printed in the RECORD.

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

The resolution (S. Res. 374) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 374

Whereas the Veterans History Project was established by a unanimous vote of the United States Congress to collect and preserve the wartime stories of American veterans;

Whereas Congress charged the American Folklife Center at the Library of Congress to undertake the Veterans History Project and to engage the public in the creation of a collection of oral histories that would be a lasting tribute to individual veterans and an abundant resource for scholars;

Whereas there are 17,000,000 wartime veterans in America whose stories can educate people of all ages about important moments and events in the history of the United States and the world and provide instructive narratives that illuminate the meanings of ''service'', ''sacrifice'', ''citizenship'', and ''democracy'';

Whereas the Veterans History Project relies on a corps of volunteer interviewers, partner organizations, and an array of civic minded institutions nationwide who interview veterans according to the guidelines it provides;

Whereas increasing public participation in the Veterans History Project will increase the number of oral histories that can be collected and preserved and increase the number of veterans it so honors; and

Whereas ''National Veterans Awareness Week'' commendably preceded this resolution in the years 2005 and 2006: Now, therefore, be it

Resolved, That the Senate—

(1) recognizes ''National Veterans Awareness Week'';

(2) supports the designation of a ''National Veterans History Project Week'';

(3) calls on the people of the United States to interview at least one veteran in their families or communities according to guidelines provided by the Veterans History Project; and

(4) encourages local, State, and national organizations along with Federal, State, city and county governmental institutions to participate in support of the effort to document, preserve, and honor the service of American wartime veterans.

WELCOME HOME VIETNAM VETERANS DAY

Mr. DURBIN. Mr. President, I ask unanimous consent that the Veterans' Affairs Committee be discharged from further consideration of S. Res. 289 and the Senate proceed to its consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 289) expressing the sense of the Senate that a ''Welcome Home Vietnam Veterans Day'' should be established.

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

Mr. DURBIN. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motions to reconsider be laid upon the table, and that any statements relating to the resolution be printed in the RECORD.

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

The resolution (S. Res. 289) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 289

Whereas the Vietnam War was fought in Vietnam from 1961 to 1975, and involved North Vietnam and the Viet Cong in conflict with the United States and South Vietnam;

Whereas the United States became involved in Vietnam because policy-makers in the United States believed that if South Vietnam fell to a Communist government that Communism would spread throughout the rest of Southeast Asia;

Whereas members of the United States Armed Forces began serving in an advisory role to the South Vietnamese in 1961;

Whereas as a result of the Gulf of Tonkin incidents on August 2 and 4, 1964, Congress overwhelmingly passed the Gulf of Tonkin Resolution (Public Law 88–408), on August 7, 1964, which effectively handed over war-making powers to President Johnson until such time as ''peace and security'' had returned to Vietnam;

Whereas, in 1965, United States Armed Forces ground combat units arrived in Vietnam;

Whereas, by the end of 1965, there were 80,000 United States troops in Vietnam, and by 1969 a peak of approximately 543,000 troops was reached;

Whereas, on January 27, 1973, the Treaty of Paris was signed, which required the release of all United States prisoners of war held in North Vietnam and the withdrawal of all United States Armed Forces from South Vietnam;

Whereas, on March 30, 1973, the United States Armed Forces completed the withdrawal of combat troops from Vietnam;

Whereas more than 58,000 members of the United States Armed Forces lost their lives in Vietnam and more than 300,000 members of the Armed Forces were wounded;

Whereas, in 1982, the Vietnam Veterans Memorial was dedicated in the District of Columbia to commemorate those members of the United States Armed Forces who died or were declared missing in action in Vietnam;

Whereas the Vietnam War was an extremely divisive issue among the people of the United States;

Whereas members of the United States Armed Forces who served bravely and faithfully for the United States during the Vietnam War were caught upon their return home in the crossfire of public debate about the involvement of the United States in the Vietnam War;

Whereas the establishment of a ''Welcome Home Vietnam Veterans Day'' would be an appropriate way to honor those members of the United States Armed Forces who served in Vietnam during the Vietnam War; and

Whereas March 30 would be an appropriate day to establish as ''Welcome Home Vietnam Veterans Day'': Now, therefore, be it

Resolved, That it is the sense of the Senate that there should be established a ''Welcome Home Vietnam Veterans Day'' to honor those members of the United States Armed Forces who served in Vietnam.

DISCHARGE AND REFERRAL—H.R. 767

Mr. DURBIN. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be discharged from further consideration of H.R. 767, and that the bill be referred to the Committee on Environment and Public Works.

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

MEASURES READ THE FIRST TIME—H.R. 3495 and H.R. 3685

Mr. DURBIN. Mr. President, I understand there are two bills at the desk. I ask for their first readings en bloc.

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

The legislative clerk read as follows:

A bill (H.R. 3495) to establish a National Commission on Children and Disasters, and for other purposes.

A bill (H.R. 3685) to prohibit employment discrimination on the basis of sexual orientation.

Mr. DURBIN. I now ask for their second reading en bloc, and I object to my own request en bloc.

The PRESIDING OFFICER. Objection is heard.

ORDERS FOR FRIDAY, NOVEMBER 9, 2007, AND TUESDAY, NOVEMBER 13, 2007

Mr. DURBIN. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand adjourned until 10 a.m. Friday, November 9; that on Friday, the Senate meet in pro forma session only with no business conducted; that at the close of the pro forma session the Senate then stand adjourned until 10 a.m., Tuesday, November 13; that on Tuesday, following the prayer and pledge, the Journal of proceedings be approved to date, the morning hour deemed expired, the time of the two leaders reserved for their use later in the day; that the Senate then proceed to executive session to consider the nomination of Robert M. Dow, Jr., to be a U.S. district judge; that the nomination be debated until 10:10 a.m., with the time equally divided and controlled between the leaders or their designees; that at 10:10 a.m., the Senate proceed to vote on confirmation of the nomination; that upon confirmation, the motion to reconsider be laid upon the table and the President immediately notified of the Senate's action and the Senate then return to legislative session and be in a period of morning business until 12:30 p.m., with Senators permitted to speak therein for up to 10 minutes each and the time equally divided and controlled between the leaders or their designees, with the Republicans controlling the first portion and the majority controlling the final portion; provided further that Senator DORGAN control up to 30 minutes of the majority's time; that at 12:30 p.m., the Senate stand in recess until 2:15 p.m. for the respective party conference meetings.

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

ADJOURNMENT UNTIL 10 A.M. TOMORROW

Mr. DURBIN. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand adjourned under the previous order.

There being no objection, the Senate, at 11:39 p.m., adjourned until Friday, November 9, 2007, at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate:

DEPARTMENT OF STATE

PATRICIA M. HASLACH, OF OREGON, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, FOR THE RANK OF AMBASSADOR DURING HER TENURE OF SERVICE AS UNITED STATES SENIOR COORDINATOR FOR THE ASIA-PACIFIC ECONOMIC COOPERATION (APEC) FORUM.

DEPARTMENT OF DEFENSE

MARY BETH LONG, OF VIRGINIA, TO BE AN ASSISTANT SECRETARY OF DEFENSE, VICE PETER W. RODMAN, RESIGNED.

IN THE AIR FORCE

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE 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. WILLIAM L. SHELTON, 0000

CONFIRMATION

Executive nomination confirmed by the Senate: Thursday, November 8, 2007:

DEPARTMENT OF JUSTICE

MICHAEL B. MUKASEY, OF NEW YORK, TO BE ATTORNEY GENERAL.

THE ABOVE NOMINATION WAS APPROVED SUBJECT TO THE NOMINEE'S COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.