



United States
of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 111th CONGRESS, FIRST SESSION

Vol. 155

WASHINGTON, TUESDAY, OCTOBER 6, 2009

No. 143

Senate

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

PRAYER

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

Let us pray.

Lord God of the nations, our country was conceived in the minds and hearts of appointed leaders who acknowledged their need of You. May the Members of this body follow that example and humble themselves before You. Help our lawmakers to admit their need for Your guidance and submit to the leading of Your spirit. Lord, remind them that You have promised to be with them always, even until the end of the age. Encourage our Senators in the knowledge that each Member is important to the effective operation of the legislative process. Keep them working together as a family of loyal Americans privileged to serve our Nation.

We pray in Your sovereign Name. Amen.

PLEDGE OF ALLEGIANCE

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

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

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

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

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, October 6, 2009.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby

appoint the Honorable ROLAND W. BURRIS, a Senator from the State of Illinois, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

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

RECOGNITION OF THE MAJORITY LEADER

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

SCHEDULE

Mr. REID. Mr. President, following leader remarks, the Senate will turn to executive session to consider the nomination of Thomas Perez to be an assistant attorney general, with the time until 12:15 equally divided and controlled between Senators LEAHY and SESSIONS, the chairman and ranking member of the Judiciary Committee.

At 12:15 the Senate will proceed to a cloture vote on the nomination. Under a previous order entered, if cloture is invoked, all postcloture debate time will be yielded back and the Senate will proceed to vote on confirmation of the nomination.

We are working out now whether we will need a rollcall vote on confirmation of the nomination if cloture is invoked. Upon disposition of the nomination, the Senate will proceed to the weekly caucus luncheons which will last until 2:15 p.m. today.

After the recess, there will be a period of morning business until 3:15 p.m., with the time equally divided and controlled between the two leaders or their designees. At 3:15 the Senate will resume consideration of the Department of Defense Appropriations bill and begin a series of up to 14 rollcall votes in relation to the remaining amendments and passage of the bill.

MEASURE PLACED ON THE CALENDAR—S. 1751

Mr. REID. Mr. President, S. 1751 is at the desk. It is my understanding it is due for a second reading.

The ACTING PRESIDENT pro tempore. The clerk will read the bill for the second time.

The legislative clerk read as follows:

A bill (S. 1751) to prohibit the Federal Government from awarding contracts, grants, or other agreements to, providing any other Federal funds to, or engaging in activities that promote the Association of Community Organizations for Reform Now or any other entity which has been indicted for or convicted of violations of laws governing election administration or campaign financing.

Mr. REID. I object to any further proceedings with respect to the bill at this time.

The ACTING PRESIDENT pro tempore. Objection having been heard, the bill will be placed on the calendar.

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

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

RECOGNITION OF THE MINORITY LEADER

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

HEALTH CARE WEEK XII, DAY 1

Mr. MCCONNELL. Mr. President, the American people have made their voices heard in the health care debate. Their message is clear. They want reforms that bring down the staggering cost of health care and increase access,

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



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and they do not want insurers turning people away.

In short, Americans are not happy with the status quo. But they are just as concerned, if not more so, with the alternatives that the White House and a handful of Democrats on Capitol Hill are pushing through Congress.

Soon, the last of the five committees involved in this debate will finish its work. After that, a handful of Democratic Senators will get together in a closed conference room somewhere in the Capitol to hash out a final product. Their proceedings may be private, but based on their stated preferences we have got a good sense of the basics.

We know that the bill they send to the Senate floor will cut seniors' Medicare by half a trillion dollars; we know that it will raise taxes on virtually everyone; we know it will limit the health care choices Americans now enjoy. And we know it will be a big government bonanza: a \$1 trillion pricetag and 1,000 pages of indecipherable text.

For the past 2 weeks, Americans have been focused on the Senate Finance Committee. The real focus should be on the conference room where the final bill will be decided. That is because it is in that room that the Democratic leadership from the White House and Congress will attempt to decide the fate of health care for everyone. Their deliberations will be secret. And there is only one direction these Senators plan to take this legislation, and that is to the left.

We have seen what happens in these kinds of closed deliberations before. Over the summer, members of the HELP Committee discovered after a month-long markup that a wellness measure they had agreed to unanimously in front of the cameras in July was mysteriously taken out away from the cameras sometime after a final vote was taken on the bill.

And we all remember how executives at AIG ended up with multimillion dollar bonuses after nearly driving the company off a cliff. Those bonuses were blessed in a closed-door meeting somewhere in the Capitol after a final vote on the stimulus bill had already taken place.

This bill already starts out with a flawed foundation of Medicare cuts, more taxes, more debt, and fewer health care choices. That is reason enough for Americans to oppose it. Now the finishing touches will be added on in secret before a rush to the finish.

Proponents of the administration's health care plan have been working hard over the past 2 weeks to convince the American people their concerns are being heard. We will see if that has just been window dressing. The fact is, the final bill will be worked out, out of sight, by a mere few whose decisions will affect everyone in America. Away from the cameras, they will make decisions that affect every single American and one-sixth of our entire economy.

Americans want commonsense reform. Reshaping the entire economy,

limiting their choices, expanding government control over health care, cutting Medicare, and raising taxes in the middle of the worst economy in memory, and then pushing it through with as little public scrutiny as possible is not what they would call reform.

RESERVATION OF LEADER TIME

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

EXECUTIVE SESSION

NOMINATION OF THOMAS E. PEREZ TO BE AN ASSISTANT ATTORNEY GENERAL

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

The legislative clerk read the nomination of Thomas E. Perez, of Maryland, to be an Assistant Attorney General.

The ACTING PRESIDENT pro tempore. Under the previous order, the time until 12:15 p.m. will be equally divided and controlled between the Senator from Vermont, Mr. LEAHY, and the Senator from Alabama, Mr. SESSIONS, or their designees.

The Senator from Maryland is recognized.

Mr. CARDIN. Mr. President, first let me say how pleased I am that we are now considering Tom Perez to head the Civil Rights Division. We in Maryland are particularly proud because Tom Perez hails from our State. He has had a distinguished record in the State of Maryland in service to the people of our State and also to the people of our Nation.

I am very pleased that we finally have gotten to this moment. The Civil Rights Division is the Nation's moral conscience. It has been important to protect the rights of all Americans against all forms of discrimination whether it is in employment, whether it is in education, whether it is in housing, whether it is in voting, whether it is in personal liberties or hate crimes. It is what Americans turn to to protect their rights. It has had a very proud history, the Civil Rights Division, since its inception, both under Democratic and Republican administrations. It has had a steady course.

There has been one notable exception. I think we all understand that during the previous administration there was an effort made to diminish the importance of the Civil Rights Division. It triggered joint reports by the Office of Personal Responsibility and the Office of the Inspector General. They issued a joint report on January 13, 2009. It found there was consideration of political and ideological affiliations in hiring career attorneys at the Department of Justice, Civil Rights Di-

vision, which was a violation of Federal law. We also know that during the previous administration, the number of cases brought to protect the civil liberties of Americans was greatly diminished, and the Department took a different view, one that compromised the integrity and independence of the Civil Rights Division.

So it is important we get back on track, and that is why I am so pleased today that we are considering the confirmation of Tom Perez to be the head of the Civil Rights Division. Tom brings a great background to this important assignment. He was educated at Brown University where he received his undergraduate degree, the John F. Kennedy School of Government, and Harvard Law School. He had experience right out of law school as a prosecutor in the Civil Rights Division of the Department of Justice. So from day one Tom Perez knew he had a calling to help improve the civil rights of Americans. Maybe it was because of his family background, the son of an immigrant, maybe it was because of his commitment to the American dream, but he had that passion to help other people, to protect the civil liberties and civil rights of Americans. He rose to become the Deputy Chief in the Division's criminal section. He was a trial attorney for the Department of Justice. He then later took a very important assignment in the Senate. He became special counsel to Senator Ted Kennedy. What a mentor for him. He has commented frequently about his year in the Senate and what a great learning experience it was to understand the importance of the Civil Rights Division from the champion of civil rights in the Senate, Senator Kennedy.

He then became a professor in civil rights law and later returned with an appointment to head the Civil Rights Division of the Department of Health and Human Services, continuously working to promote civil rights. He decided to take on a unique challenge and ran for county council in Montgomery County, MD. I am familiar with all the jurisdictions of Maryland. Perhaps the most challenging is to be a county councilman in Montgomery County, one of our most diverse counties and the largest. He was the first Latino to become president of the county council and took on the great challenges in that county in a professional way and was well respected.

Governor O'Malley appointed him as secretary of Labor, Licensing and Regulation, a critically important part of the O'Malley cabinet. Then, President Obama tapped him to be the head of the Civil Rights Division of the Department of Justice. On June 4, the Judiciary Committee recommended, by a 17-to-2 vote, strongly bipartisan, to recommend his confirmation to the entire Senate. As to reservations raised in the committee, after the confirmation vote, we had meetings with Mr. Perez and Members of the Senate to get a

further understanding of their concerns and to understand where Tom Perez would lead the Civil Rights Division. I don't want to comment for my colleagues, but I thought those meetings went extremely well. That is the type of person Tom Perez is. He tries to work things out without compromising the responsibilities of promoting civil rights of all Americans.

With this vote today, we can take a major step forward to restore the integrity, confidence, historical role, and the reputation of the Nation's most important agency to protect the civil rights of all Americans.

I ask unanimous consent to have printed in the RECORD letters of support we have received from the following individuals: Martin O'Malley, Governor of the State of Maryland; Thomas Mike Miller, president of the Maryland Senate; Mike Busch, speaker of the house of the Maryland General Assembly; John McCarthy, States attorney for Montgomery County; along with Anthony O'Donnell, the Republican leader of the Maryland house of delegates; and our colleagues in the Congress, CHRIS VAN HOLLEN, who represents the eighth district; ELIJAH CUMMINGS, who represents the seventh congressional district; DUTCH RUPPERSBERGER, who represents the second congressional district; STENY HOYER, majority leader of the house from the fifth congressional district; and ERIK PAULSEN, who represents the third congressional district of Minnesota.

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

STATE OF MARYLAND,
Annapolis, MD, April 21, 2009.

Hon. PATRICK LEAHY,
Chairman, U.S. Senate, Committee on the Judiciary, Dirksen Senate Office Building, Washington, DC.

Hon. ARLEN SPECTER,
Ranking Member, U.S. Senate, Committee on the Judiciary, Dirksen Senate Office Building, Washington, DC.

DEAR CHAIRMAN LEAHY AND RANKING MEMBER SPECTER: I am writing to express my strong support for the nomination of Thomas Perez to be Assistant Attorney General for Civil Rights at the Department of Justice. Tom is a committed public servant who has devoted his entire career to the people of Maryland and this nation, and he is highly qualified to lead the revitalization of the Civil Rights Division.

The Department of Labor, Licensing and Regulation (DLLR) has 1600 employees and wide ranging jurisdiction. Its responsibilities range from enforcement of labor laws to the oversight of our state banking system and regulation of certain mortgage originators, to the administration of Unemployment Insurance and workforce development programs. The Department has additional consumer protection responsibilities, and the job requires a person with a wide breadth and depth of knowledge and experience.

When I asked Tom to serve as Secretary of DLLR in 2007, I frankly had no idea that the issues within his agency's jurisdiction would occupy such a prominent role in my administration so soon. Shortly after I assumed office, we were immediately confronted by the foreclosure crisis and the national recession.

Tom immediately rose to the occasion, and has been especially instrumental in leading the charge to combat the foreclosure crisis, and in helping me craft an economic security package to assist straggling Marylanders. In 2007 he co-chaired the Homeownership Preservation Task Force, and by working with all stakeholders, including both consumer groups and banking representatives, he was able to craft consensus reforms that gained broad bipartisan support in the General Assembly. Those reforms, which lengthened the foreclosure process, strengthened lending and licensing standards and created new tools to combat fraud, have been recognized as some of the most sweeping in the nation. One of the nation's largest mortgage fraud prosecutions originated in Tom's office, and has been a model of collaboration between the state and federal prosecuting authorities.

I have been particularly impressed with Tom's leadership and management skills, as well as his ability to work across party lines with the Maryland General Assembly. Tom inherited an agency with great potential that was not firing on all cylinders. He tackled critical management and leadership challenges head on, and transformed DLLR from a second tier to a top tier agency. He has brought the Department recognition it never before received from lawmakers and other officials in the State. Republicans and Democrats alike in the Maryland General Assembly have praised his policy and legal acumen, and his inclusive, engaging style.

While Tom's nomination by President Obama leaves us with the difficult task of finding someone as able and well-respected to fill his shoes, I know he is the right person to lead the Civil Rights Division back to prominence. I strongly support his confirmation, and I urge you to do the same.

Sincerely,

MARTIN O'MALLEY,
Governor.

MARYLAND GENERAL ASSEMBLY,
Annapolis, MD, April 22, 2009.

Senator PATRICK LEAHY,
Committee on the Judiciary, Dirksen Senate Office Building, Washington, DC.

DEAR CHAIRMAN LEAHY: We write to offer an unqualified and unhesitating endorsement of Thomas Perez's nomination to serve as Director of the United States Department of Justice's Office for Civil Rights. We know Mr. Perez to be a passionate and tireless advocate, a dedicated and responsible civil servant, and a thoughtful and respected leader. He will be a tremendous asset to the Department of Justice.

Mr. Perez was appointed to serve as Maryland's Secretary of Labor, Licensing and Regulation in January, 2007. He inherited a historically underfunded agency beset by political challenges and morale problems—a weaker leader could easily have been overwhelmed by the agency's inertia. Where others might have seen problems, Mr. Perez saw opportunity. From his first day as Secretary, Mr. Perez breathed new life into the department with a goal-oriented agenda and a commitment to pro-active, results-driven management.

The Department of Labor, Licensing and Regulation supervises job training and match services, unemployment insurance, and many of the State's licensing and regulatory boards. As Secretary, Mr. Perez had to balance the interests of the business community against our State's commitment to consumer protection. That can be a precarious tightrope, but he won praise from business leaders and consumer advocates for his willingness to listen and his ability to forge consensus.

In addition to his responsibility for the day-to-day operations of the agency, Mr.

Perez helped shepherd the Governor's agenda through the General Assembly. He conducted himself with grace and aplomb, confronting skeptics and cynics with his earnest desire to improve the lives of ordinary Marylanders. His work ethic and meticulous attention to the details of policy-making earned him the trust of lawmakers across the political spectrum, and he parlayed that trust into extraordinary legislative success for working families in our state.

Mr. Perez championed Maryland's efforts to combat the foreclosure crisis. He brought the banking industry together with consumer advocates to craft meaningful reform that put Maryland at the forefront of this critical issue. During this year's legislative session, he brought labor organizations together with industry groups to fight fraudulent misclassification of employees as independent contractors. In both instances, he won praise for bringing everyone to the table and crafting compromises which might otherwise have proved elusive.

We would be remiss if we did not raise the time honored cliché: the nation's gain will be the State of Maryland's loss. Mr. Perez's unwavering obligation to the highest ideal of public service will be an asset to the Department of Justice. His untiring commitment to his work will earn him respect and admiration from his colleagues. His innate intelligence and problem-solving abilities will help him move the Office of Civil Rights forward to the benefit of all Americans.

In the plainest and strongest terms possible, we urge you to confirm Mr. Perez as Director of the Office of Civil Rights. He is a remarkable public servant, and he will be an exceptional asset to our nation during this tumultuous period in our history.

Respectfully,

THOMAS V. MIKE MILLER,
Jr.,
President of the Senate.
MICHAEL E. BUSCH,
Speaker of the House.

STATE'S ATTORNEY FOR
MONTGOMERY COUNTY,
Rockville, MD, April 20, 2009.

Chairman PATRICK LEAHY,
U.S. Senate, Dirksen Senate Office Building, Washington, DC.

DEAR CHAIRMAN LEAHY: I am writing to urge the confirmation of Tom Perez as Assistant Attorney General for the Civil Rights Division at the Department of Justice.

Mr. Perez currently holds the position of Secretary of Maryland's Department of Labor Licensing and Regulation. In that capacity, Tom took on the challenge of revamping a state agency that had been long neglected and widely seen as ineffective. Under Tom's leadership, this agency has gained stature and become well respected by lawmakers and other government officials.

Tom has also served as Maryland's leader to combat the mortgage foreclosure crisis. Tom played a key role in helping to craft a legislative package that has been called among the most sweeping in the nation. Tom was the first public official, that I am aware of, that several years before the current mortgage crises became apparent, publicly talked about the danger that lurked ahead in America's housing market due to a crisis in sub-prime mortgages.

Tom is a committed career public servant. Tom spent 12 years in federal public service, the majority as a federal prosecutor for the Civil Rights Division. Tom served as special counsel to Senator Edward Kennedy and was his principal advisor on civil rights and criminal justice. Tom was a law professor at the University of Maryland School of Law from 2001–2007 where he taught a civil rights clinic focusing on employment issues, health law and criminal justice.

Tom is married to Ann Marie Staudenmaier (a public interest lawyer) and father of three. Educated at our nation's finest universities including Brown and Harvard, Tom is a brilliant and articulate man of tremendous depth.

I urge you to act favorably on Tom's nomination and confirm him as Assistant Attorney General for the Civil Rights Division at the Department of Justice.

Very truly yours,

JOHN J. MCCARTHY,
State's Attorney.

THE MARYLAND
HOUSE OF DELEGATES,
Annapolis, MD, April 23, 2009.

Hon. PATRICK LEAHY,
U.S. Senate, Committee on the Judiciary, Dirksen Senate Office Building, Washington, DC.

DEAR CHAIRMAN LEAHY: As Minority Leader of the Maryland House of Delegates, I am pleased to support the nomination of Thomas Perez for the position of Assistant Attorney General for Civil Rights.

In my dealings with Secretary Perez, I have always found him to be fair-minded and willing to listen to a variety of views on an issue. While we have not always agreed ultimately, I have been impressed by his willingness to reach across the aisle. That is one reason I believe Tom Perez is an excellent choice to lead the Division of Civil Rights at the Department of Justice.

During Secretary Perez's tenure at the Department of Labor, Licensing, and Regulation, he has convened diverse groups of stakeholders on the foreclosure crisis, adult education and workforce training, and the misclassification of Maryland workers to forge consensus and find common ground. During the legislative session, he regularly seeks input from both Democratic and Republican members of the Maryland General Assembly. He also has been very responsive to my office regarding constituent issues and helping to resolve the same without regard to party.

It is my belief that the reason Tom works so hard to find comprehensive solutions to the everyday problems Americans face because he truly has their best interests at heart. He is a committed public servant. I am confident that Tom will lead the Division with commitment and integrity.

For those reasons, I support his nomination and strongly urge his confirmation.

Sincerely,

ANTHONY J. O'DONNELL,
Minority Leader.

HOUSE OF REPRESENTATIVES,
Washington, DC, April 22, 2009.

Hon. PATRICK LEAHY,
Chairman, U.S. Senate, Committee on the Judiciary, Dirksen Senate Office Building, Washington, DC.

Hon. ARLEN SPECTER,
Ranking Member, U.S. Senate, Committee on the Judiciary, Dirksen Senate Office Building, Washington, DC.

DEAR CHAIRMAN LEAHY AND RANKING MEMBER SPECTER: I am writing to offer my wholehearted support for the confirmation of Thomas E. Perez as Assistant Attorney General for Civil Rights. I've known Tom since 2002, and have had both the honor of serving as his representative to Congress and the privilege of having him serve as my representative to the Montgomery County Council.

I have seen firsthand Tom's ability to bridge divides and build coalitions in the interest of advancing the common good. Throughout his service to the people of Montgomery County and Maryland, this ability has gained him strong support from

the business community as well as the non-profit and faith communities. It has also allowed him to successfully spearhead the State's nation-leading efforts to combat the foreclosure crisis. He has a proven track record for making decisions based on input from all stakeholders, and for being open to all opinions even when they differ from his own.

Prior to his service to his community and his state, Tom served this country ably as a career attorney in the Civil Rights Division. His knowledge of the law and his respect for the Department of Justice as an institution guarantee that he will lead the Division with integrity and with respect for the career staff and their tireless work. His talent for building coalitions makes him a natural to reinvigorate the Division.

Tom is an outstanding citizen and a devoted public official who has served his country, his state and his country with distinction. I am honored to ask you to support his nomination.

Sincerely,

CHRIS VAN HOLLEN.

HOUSE OF REPRESENTATIVES,
Washington, DC, April 20, 2009.

Hon. PATRICK LEAHY,
Chairman, U.S. Senate, Committee on the Judiciary, Dirksen Senate Office Building, Washington, DC.

DEAR CHAIRMAN LEAHY: I write to express my strong, unqualified support for the confirmation of Thomas Perez as Assistant Attorney General for the Rights Division of the United States Department of Justice.

The urgent need for strong, experienced and motivated leadership of the Civil Rights Division cannot be overstated.

The historic ascension of our first African American President and Attorney General reflect progress that is both substantive and lasting. As far too many Americans are painfully aware, however, this progress does not mean that our nation's long journey toward becoming a truly just and inclusive society is at an end.

President Obama and Attorney General Holder need the most qualified and determined leadership in the Civil Rights Division that America's legal community can provide. I am firmly convinced that Thomas Perez exemplifies the character, experience and dedication that will be required.

Tom Perez is gifted with a penetrating intellect honed at Brown, The Harvard Law School and The John F. Kennedy School of Government. His professional work has coupled that intellectual acumen with an exemplary record of public service and dedication to civil rights.

He has consistently advanced and defended civil rights as a federal prosecutor for the Civil Rights Division, Special Counsel for Senator Edward Kennedy, Deputy Assistant Attorney General for Civil Rights under former Attorney General Janet Reno, Director of the Office of Civil Rights at the Department of Health and Human Services and, currently, as Maryland Secretary of Labor, Licensing and Regulation.

In addition, Tom Perez taught at the University of Maryland School of Law from 2001 until 2007, where he advanced the school's nationally recognized clinical law and health program—and he currently serves on the faculty of the George Washington School of Public Health.

On a personal note, I have been privileged to work with Thomas Perez in his current role as Secretary of Maryland's Department of Labor, Licensing and Regulation. He has been a vocal leader in our shared efforts to combat foreclosures and improve workplace protections.

He has shown a great ability to bring parties together and build consensus in impor-

tant policy areas without compromising his commitment to helping people. In these times of great economic distress, Tom has been a true voice for all Marylanders.

Chairman Leahy, it is hard to imagine how President Obama and Attorney General Holder could have made a better choice to help them restore the Civil Rights Division as this nation's leading defender of our fundamental freedoms. While I acknowledge proper deference to the Senate's constitutional power and responsibility in this matter, I also believe that it is essential—and appropriate—to add my personal voice in support of this nomination.

Tom Perez has committed his entire career to advancing civil rights and serving the public good. He is uniquely qualified to repair what has been broken at the Civil Rights Division—and I urge his speedy confirmation.

Sincerely,

ELIJAH CUMMINGS,
Member of Congress.

HOUSE OF REPRESENTATIVES,
Washington, DC, April 27, 2009.

Hon. PATRICK J. LEAHY,
Chairman, Committee on the Judiciary, U.S. Senate, Dirksen Building, Washington, DC.

Hon. ARLEN SPECTER,
Ranking Member, Committee on the Judiciary, U.S. Senate, Dirksen Building, Washington, DC.

DEAR CHAIRMAN LEAHY AND RANKING MEMBER SPECTER: I am writing to express my strong support for the nomination of Thomas Perez for Assistant Attorney General for the Civil Rights Division of the United States Department of Justice and urge his confirmation.

Secretary Perez's qualifications and credentials are exceptional. He is a nationally recognized civil rights lawyer whose breadth and depth of experience makes him an ideal choice to lead the Civil Rights Division. He knows the Division inside and out, because he worked there for almost a decade in a variety of critical positions. As a prosecutor in the Division, he was lead attorney in some of the Department's most high profile and complex civil rights cases. As Deputy Assistant Attorney General for Civil Rights, he oversaw complex litigation in the employment and education areas. As a member of the nonpartisan Kaiser Commission on Medicaid and the Uninsured and the former Director of the Office for Civil Rights at the U.S. Department of Health and Human Services, he has a keen understanding of health care issues that are front and center in our national dialogue.

In Maryland, Secretary Perez, in his current capacity as Secretary of Maryland's Department of Labor, Licensing and Regulation, has been a principal architect of Governor Martin O'Malley's wide ranging, successful foreclosure prevention initiative. Secretary Perez led the legislative effort that resulted in the passage of a package of reforms that were comprehensive and consensus. He negotiated written agreements with six major mortgage servicing companies to provide meaningful relief to Maryland homeowners in danger of foreclosure. One of the largest ongoing mortgage fraud prosecutions in the nation originated in Secretary Perez's office.

He has held leadership positions in federal, state and local government, and has worked in all three branches of the federal government. As such, he has an acute understanding of the need for the federal government to work in partnership with state and local governments to safeguard the civil rights of all Americans.

Leading the Civil Rights Division, like running an Attorney General's office, requires extensive legal, management and

leadership skills, as well as extensive experience in building coalitions. Secretary Perez has led important agencies. He currently heads a Department of roughly 1600 employees, and has held other leadership positions in the federal government. He has a well earned reputation as a consensus builder.

Mr. Perez's distinguished career demonstrates his vast leadership ability, integrity and commitment to public service. I am confident that Mr. Perez would make an exceptional Assistant Attorney General for the Civil Rights Division and urge you to confirm his nomination.

Sincerely,

ERIK PAULSEN,
Member of Congress.

HOUSE OF REPRESENTATIVES,
Washington, DC, April 27, 2009.

Hon. PATRICK LEAHY,
Chairman, U.S. Senate, Committee on the Judiciary, Dirksen Senate Office Building, Washington, DC.

Hon. ARLEN SPECTER,
Ranking Member, U.S. Senate, Committee on the Judiciary, Dirksen Senate Office Building, Washington, DC.

DEAR CHAIRMAN LEAHY AND SENATOR SPECTER: I wish to add my strong support for the nomination of Thomas Perez to be Assistant Attorney General for Civil Rights at the U.S. Department of Justice.

Tom has dedicated his life to public service, to the citizens of Maryland and to the nation. He has a breadth of experience in the law, public policy and management, and, he is known as a fair minded, knowledgeable and agreeable advocate for his clients, his law students and the public at large.

I was impressed that after Tom's service in very important posts in the Administration of President Bill Clinton, he worked to put into practice the policies he advocated. He chose to work in local government, winning election to the Montgomery County Council in Maryland and earning the support of his constituents and confidence of his colleagues on the Council when they elected Tom their President. At the same time, Tom commuted to Baltimore and taught public service advocacy to law students at the University of Maryland, Baltimore Law School.

Most recently, Tom demonstrated his management skills as the Secretary of Maryland's Department of Labor, Licensing and Regulation. He energized the agency and put it at the forefront of the effort to help Maryland homeowners facing foreclosure, along with many other reforms to help protect consumers. He was well respected by legislators in Annapolis from both sides of the aisle serving in the Maryland General Assembly.

I believe Tom possesses the talents and skills to make the Civil Rights Division an outstanding performer in the Justice Department. I hope your Committee will act favorably and expeditiously on the President's nomination for Tom to serve our Country again.

Respectfully,

C.A. DUTCH RUPPERSBERGER.

HOUSE OF REPRESENTATIVES,
Washington, DC, April 21, 2009.

Hon. PATRICK J. LEAHY,
Chairman, Committee on the Judiciary, U.S. Senate, Dirksen Building, Washington, DC.

Hon. ARLEN SPECTER,
Ranking Member, Committee on the Judiciary, U.S. Senate, Dirksen Building, Washington, DC.

DEAR CHAIRMAN LEAHY AND RANKING MEMBER SPECTER: I strongly support for the nomination of Thomas Perez for Assistant Attorney General for the Civil Rights Division of the Department of Justice, and. I urge his speedy confirmation. Currently leading

Maryland's Department of Labor, Licensing and Regulation, Secretary Perez has shown outstanding leadership throughout his career at all levels of government.

I have worked with Secretary Perez on many critical issues, and I consider him an excellent choice for the Civil Rights Division. He has already served there in a variety of key positions. As a prosecutor in the Division, he was the lead attorney in many high-profile civil rights cases. As Deputy Assistant Attorney General for Civil Rights, he oversaw complex litigation in the employment and education areas. As a member of the Kaiser Commission on Medicaid and the Uninsured, as well as the former Director of the Office for Civil Rights at the Department of Health and Human Services, Secretary Perez would also bring to his new role a deep understanding of health care disparities. In my state of Maryland, Secretary Perez led a 1,600-employee department and was the principal architect of Governor O'Malley's wide-ranging foreclosure prevention initiative. Secretary Perez also negotiated written agreements with major mortgage servicing companies to provide relief to homeowners facing foreclosure.

Leading the Civil Rights Division requires high-level management and consensus-building skills. I am confident that Secretary Perez possesses those skills, and I urge you to confirm his nomination.

With warmest personal regards, I am
Sincerely yours,

STENY H. HOYER.

Mr. CARDIN. I ask unanimous consent that time during quorum calls be equally charged to both Democrats and Republicans.

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

Mr. CARDIN. I suggest the absence of quorum.

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

The legislative clerk proceeded to call the roll.

Mr. MERKLEY. 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. MERKLEY. Mr. President, this morning I rise to make a few remarks in support of the nomination of Tom Perez as Assistant Attorney General for the Civil Rights Division. Mr. Perez is an exceptionally qualified nominee. His nomination was reported out of the Judiciary Committee on a strong bipartisan vote of 17 to 2. He has the backing of a bipartisan group of former heads of the Department of Justice Civil Rights Division, the backing of State attorneys general, and the backing of other elected officials. His varied experience will serve him well in many aspects of this position.

He was a career employee with the Civil Rights Division for 10 years and understands the importance of enforcing the law without regard to politics. He has taken on racially motivated crime through the prosecution of White supremacists who went on a fatal crime spree in Lubbock, TX, and the perpetrators of cross burning designed to intimidate an interracial family.

Mr. Perez served as Director of the Office for Civil Rights at the U.S. De-

partment of Health and Human Services, where he worked to expand opportunities for individuals with disabilities to receive care and treatment in community-based settings rather than institutions and helped develop landmark medical records privacy regulation. He was a special counselor to Senator Ted Kennedy. Currently, Mr. Perez serves as Maryland's Secretary of Labor, Licensing, and Regulation. In this position, he enforces workplace safety laws, protects consumers through the enforcement of a wide range of consumer rights laws, and collaborates with businesses and workers to address critical workforce development needs. It is hard to imagine anyone better prepared to serve as the Assistant Attorney General for the Civil Rights Division.

Mr. Perez has firsthand experience fighting racially motivated crimes. Mr. Perez has firsthand experience standing up for the disabled and patient privacy. He has firsthand experience protecting the rights of workers and consumers.

I urge my colleagues to move expeditiously to confirm this nomination and put a man of rare and extensive experience in charge of the Civil Rights Division for the benefit of all of our citizens.

Thank you, Mr. President.

I suggest the absence of a quorum.

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

The bill clerk proceeded to call the roll.

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

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

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

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

DEFENSE APPROPRIATIONS

Mr. BURRIS. Madam President, as we debate this Defense appropriations bill, many of my colleagues have discussed the commitment we make to those who serve this country in uniform. It is a commitment that begins on the day they volunteer for military service, and it extends through their retirement and beyond.

Just as we have an obligation to servicemembers who work in harm's way, we need to offer strong support for those who are left here at home.

Military families bear a burden that must not be forgotten. They deserve our utmost gratitude. And their stability and well-being affect the readiness of our Armed Forces. Our soldiers, sailors, airmen and marines cannot afford to be distracted by worries about those they leave at home. We need to address the needs of these families, not only to honor the sacrifices they make, but also to provide stability. Quality

education is at the very center of these needs.

That is why we must increase funding for Impact Aid, a program which provides assistance to school districts that serve military families.

Throughout my career in public service, I have been a strong believer in education as a powerful force to shape lives—to give people the tools they need and the inspiration that will help them succeed. It is the foundation upon which we build our Nation's future.

But even when we see an improvement in scholastic performance at the national level, some groups of students fall further and further behind. Many children of Federal workers, including military personnel, fall into one of these groups.

Military bases—and other Federal facilities—occupy land that might otherwise be zoned for commercial use. Because of this, local school districts suffer from a reduced tax base to fund their expenses. This limits the amount that can be spent in the classroom and leaves students at a serious disadvantage compared with kids in neighboring towns.

We need to correct this inequity.

In North Chicago, IL—the home of the Great Lakes Naval Training Center—only half of the 4,000 students meet or exceed State standards. Even with some Federal assistance, North Chicago's School District 187 is able to spend just under \$7,000 per student, per year.

But in nearby District 125, they have the resources to spend nearly twice as much per pupil, and the school performs among the best in the State. An increase in Impact Aid funding would help to level this playing field, ensuring that the children of our soldiers, sailors, airmen and marines are not at a disadvantage because of their parents' service.

Impact Aid funds are delivered directly to the school district in need, so they do not incur administrative costs at the State level. This makes Impact Aid one of the most efficient—and effective—Federal education programs.

Scott Air Force Base is located in Mascoutah, IL—a community that receives Impact Aid funding. The local school district is able to spend only \$6,000 a year on each child, but 90 percent of the students meet or exceed State standards. If these are the results that some students can achieve with only \$6,000 per year, imagine how well Mascoutah might perform with even a small increase in available funds.

It is vital that we target Federal assistance to the people who need it most—like the students in North Chicago and Mascoutah. That is why I am proud to be a member of the Senate Impact Aid Coalition, a group of 35 Senators devoted to protecting this important program. And that is why I believe that the \$30 million we have set aside for Impact Aid is simply not enough.

It is time to step up our commitment to military families. It is time to make sure all children have access to a quality education, regardless of who they are or where they are from.

So I ask my colleagues to join me in supporting the House version of this appropriations bill, which commits \$44 million to the Impact Aid Program. And when the legislation reaches conference committee, I urge Chairman LEVIN to defer to the House mark.

The \$14 million difference between the House and Senate versions may not seem significant compared to the size of the Federal budget. It may not seem significant next to the amount we spend to equip and deploy our men and women in uniform. But it will be significant to the students.

Students in North Chicago, and Mascoutah—O'Fallon, and Rockford—and hundreds of communities in Illinois and over 260,000 students in 103 school districts across the United States.

We owe them the same support we continue to show to their parents in uniform. And it is time to step up our efforts to meet that commitment.

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

The PRESIDING OFFICER. Will the Senator withhold that request?

Mr. BURRIS. Yes.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized.

Mr. COBURN. Madam President, I rise today to express my serious concerns about the nomination of Mr. Tom Perez to head the Civil Rights Division of the Department of Justice. First, given his affiliation with CASA de Maryland, an extreme immigrant advocacy organization for which he served as president of the board, I am concerned that he will utilize the Civil Rights Division to undermine immigration enforcement.

Second, Mr. Perez has made statements indicating that he believes health care is a civil right and he has a disturbing view of the responsibilities of health care providers. Third, his views on a Clinton-era executive order requiring health care providers to provide services and documents in languages other than English infringes on the right of States to declare English as the official State language. Finally, though not directly related to Mr. Perez's qualifications, I am deeply troubled by the Department of Justice's failure to respond to legitimate requests for information by the Senate, the House of Representatives, and the U.S. Commission on Civil Rights regarding the Department's decision earlier this year to dismiss the New Black Panthers voter intimidation case.

I know some of my colleagues have more thoroughly discussed Mr. Perez's positions on immigration issues, but I want to briefly mention some of my concerns. Mr. Perez served on the board of CASA Maryland from 1995–2002 and as president of the board from 2001–2002. CASA provides assistance to

Latinos and immigrants in Maryland; it also promotes day labor sites, opposes restrictions on immigrants receiving driver's licenses, and supports in-State tuition for immigrants. More concerning, CASA has been criticized for issuing a pamphlet that instructed immigrants targeted by Federal authorities on what to do if they are arrested or detained. The Washington Times ran an article on the brochure, noting that it “features cartoonlike drawings of armed black and white police officers escorting Hispanic men in handcuffs and shows babies crying because their fathers are behind bars.” I have concerns about Mr. Perez's lengthy association with an organization that advocates these extreme positions.

I also believe Mr. Perez has a disturbing view of the health care system and particularly of the responsibilities of health care providers. Mr. Perez has made statements indicating that he believes health care is a civil right. He also has said that health care providers receiving Federal funds must provide services in languages other than English or risk forfeiture of those funds due to title VI of the Civil Rights Act and a Clinton-era executive order directing Federal departments and agencies to ensure that those with limited English proficiency, LEP, are given meaningful access to programs and activities conducted by the Federal Government or by recipients of Federal funds. I would note that this executive order was not enforced by the Bush administration. I disagree with Mr. Perez's interpretation of the Civil Rights Act, and in 2006, I offered an amendment to immigration legislation to repeal the executive order. After I offered that amendment, Mr. Perez wrote an article in which he stated that I had a “distressing disregard for the doctor-patient relationship,” and that I would “undermine meaningful communication between doctors and patients—thus relegating those who do not speak English to a lower rung of our health care system.”

After all my years of practicing medicine, I take offense at someone stating that I have a “distressing disregard” for the doctor-patient relationship. I have treated numerous patients who do not speak English and found ways to communicate with them. Often these patients have family members who speak some English or they find other ways to communicate. There is no reason to burden health care providers with the expense of having to provide services in languages other than English.

Following the Judiciary Committee vote on his nomination, Senators SESSIONS, CARDIN, and I met privately with Mr. Perez to discuss my concerns about his positions on health care issues, and not only did he not alleviate my concerns, but he also made no effort to apologize for his incendiary comments. I believe Mr. Perez fails to understand how the executive order undermines

patient care, and I fear this lack of understanding will affect similar policies he will implement if he is confirmed to head the Civil Rights Division.

Although Mr. Perez clearly has a passion for limited English—proficiency individuals, I am afraid this passion clouds his judgment as it pertains to health care treatment and costs and will affect his judgment as the head of the Civil Rights Division. As proof, I offer the following example. In 2002, the Office of Management and Budget, OMB, issued a study which stated, “we anticipate that the cost of LEP assistance, both to government and to the United States economy, could be substantial, particularly if the Executive Order is implemented in a way that does not provide uniform, consistent guidance to the entities it covers . . . provision of language services could be most costly for the healthcare sector.” In contrast, Mr. Perez has stated that he does “not believe that Executive Order 13166 has a fiscal impact on State or Federal Governments because it imposes no new requirements on them.” This lack of judgment is concerning to me.

In addition to my disagreement with Mr. Perez on the treatment of health care as a civil right, his views on the Clinton-era executive order requiring health care providers to provide services and documents in languages other than English infringes on the right of States to declare English as the official State language. Specifically, the current acting assistant attorney general for the Office of Civil Rights sent a preemptive letter to Oklahoma’s attorney general, threatening prosecution and retraction of Federal funds if Oklahoma enacted a constitutional amendment pending before the State legislature at that time, which would declare English as the official State language. It is unprecedented for DOJ to send such a preemptive letter. Approximately 30 other States have English-only policies, and, to my knowledge, none of these States has received such a letter. Three of those States have laws similar to the Oklahoma proposal. Thus, this letter to Oklahoma was not directed against its current law, but aimed at preventing such a law from being enacted because DOJ views it as possibly violating civil rights laws. Subsequently, the Oklahoma Legislature passed the amendment, and it will be presented to the people for approval in 2010.

I am disturbed that in written questions for the record, Mr. Perez affirmed the Department’s position. I asked Mr. Perez if it would be appropriate for the Office of Civil Rights to send such a preemptive letter, and he stated “if the Civil Rights Division believes that a state’s ‘English Only’ provisions do not comply with Title VI of the Civil Rights Act of 1964, it would be appropriate for it to issue that sort of letter.” He also stated that the Clinton-era executive order does not undermine “the rights of states to declare English

as their official language.” Furthermore, Mr. Perez believes that the executive order “does not create new obligations for states.” As a result of the Office of Civil Rights’ letter to Oklahoma, all members of the Oklahoma delegation have sent a response letter to Attorney General Holder. The letter asks him to explain why the Office of Civil Rights sent the letter to Oklahoma, whether similar letters have been sent to other States or cities with English-only policies, outline what type of funding would be denied to Oklahoma if the law was enacted, and whether this preemptive letter-writing process is DOJ’s policy. To date, the State of Oklahoma has not received a response. Without such explanation, it appears that Oklahoma was specifically targeted in a political maneuver by DOJ since there was no Oklahoma law enacted that violated civil rights laws at the time it sent the letter.

In his writings, Mr. Perez also has advocated for affirmative action in admissions to health care schools because he believes minority applicants are more likely to work in underserved populations. On March 30, 2009, Linda Chavez—former Staff Director of the U.S. Commission on Civil Rights, 1983–1985, and Secretary of Labor nominee—wrote an article critical of Mr. Perez’s arguments for race-conscious admissions policies for health professions schools. She notes that in one article, Mr. Perez “cited a handful of studies that purport to show that minority doctors are more likely to provide medical care to underserved poor minority populations than white physicians are. He then leapt to the conclusion that the best way to improve access to medical care for underserved populations was to insist that medical schools use race or ethnicity in choosing which students to admit.” She claims that this appears to be an argument in support of “a form of medical apartheid in which minority patients should be served by minority doctors under the presumption that both groups benefit from this practice.” She calls this argument “insulting and dangerous” and notes that “doctors who primarily treat patients enrolled in government programs are less likely than those with private insurance to have passed demanding board certification in their specialties and to have access to high-quality specialists in other fields. Under Perez’s rationale, it shouldn’t matter whether the doctors who serve poor people are less likely to be board-certified so long as they are black or brown.” She further notes, “Perez’s solution to the problem is to lower standards even further so that more under-qualified minority physicians are admitted to practice medicine. Medical schools already admit black and, to a lesser degree, Hispanic students with lower qualifications than whites or Asians.”

Finally, I am deeply troubled by the Justice Department’s failure to respond to legitimate requests for infor-

mation regarding its decision not to pursue the prosecution of the New Black Panther Party voter case. Earlier this year, House Judiciary Committee Members exchanged a series of letters with the Justice Department requesting an explanation for why the Department decided not to pursue the case against the New Black Panther Party for alleged voter intimidation that occurred in the November 2008 elections in Philadelphia. These Members sought an explanation for the dismissal of the case, which the Bush Justice Department had filed in early January 2009. The Justice Department did not respond to these inquiries until mid-July, and even then they were vague and indicated possible political interference with this case. Following the denial of this request for information, the House Members asked members of the Senate Judiciary Committee to hold Mr. Perez’s nomination until the Department provided a more thorough response. Senator SESSIONS also sent a letter to the Justice Department and did not receive an acceptable response. The independent U.S. Commission on Civil Rights also has demanded that the Justice Department explain its dismissal of the lawsuit against members of the Black Panther Party and have not received a satisfactory response from DOJ.

Voter intimidation is unacceptable, and Congress deserves an explanation of the Justice Department’s actions. Oversight of the Department is a legitimate function of Congress, and Members deserve an explanation rather than stonewalling. For this reason, I will vote against cloture on Mr. Perez’s nomination—as a protest to this lack of cooperation. I will vote against Mr. Perez’s nomination based on the aforementioned concerns about his policy positions.

Madam President, I thank Senator CARDIN because he graciously arranged a meeting between myself and Senator SESSIONS and, I believe, Senator KYL several months ago. There is no question that Mr. Perez is a very bright, engaging, and competent individual.

Regretfully, my concerns with his nomination were not allayed by that meeting. I think Senator CARDIN has done a great job shepherding this, and I know the outcome. I still think the American people ought to hear about the concerns I have.

We are in the midst of a lot of difficulty in our country. We are struggling somewhat with our mojo, our confidence, with where we are going and how we are going to get there. A lot of it comes back to how did we ever get to the depth of problems we are having today? I think about this a lot, because I think the answer to it is the solution for how we get out of the problems we are in. Where do we go? How is it that we have an almost \$12 trillion debt right now, \$100 trillion in unfunded liabilities, and a budget deficit this year that, by the time you count what we stole from Social Security and

all the other trust funds, is about \$1.8 trillion, and debt that will double in 5 years and triple in 10—how did we get there?

I think this nomination is a key answer for us. How we got there was building a Federal Government that has forgotten several things, but, most importantly, what the Constitution said about its real role. No. 2, it has allayed the concerns and the benefits of personal responsibility in this country.

I think Mr. Perez is a fine man, but I think his viewpoint is a disaster for the future of this country in terms of what is a civil right and what isn't. It is a civil right, according to Mr. Perez, that I have to, as a physician or a hospital or a grocery store, interpret language for anybody who would come to this country and cannot speak the language.

Our history is that people who have come to our country learned the language so they can succeed. One of the things that has made us great has been the commonality of English. The very statements Mr. Perez would make—that doctors who don't agree and health care providers who don't agree with his perception of a civil right of having somebody speak your language, no matter what it is, that they don't care about their patients and don't care about healing—is a step too far. But those are his statements.

If we are to get out of the problems we are in as a nation, it is going to take us time to relook at what made us successful. I mentioned all these other problems before, because in the Constitution—I read a letter from a constituent this morning about how my obligation for Oklahoma is to represent only Oklahoma's interests. I said, you know, that isn't the oath I took. The oath I took was to uphold the Constitution. So now we have this expansive Federal Government we are choking on, not just in terms of its costs but also in terms of how its tentacles reach into people's lives. We are getting ready to have a health care debate to enhance that by another 25 percent in terms of the reach of the Federal Government into your individual lives, and we have a nominee for the Justice Department who believes that individual responsibility and personal accountability don't fall equally across this country, it falls only on those providing services.

The other issue is the fact that 30 States have English-only language. The Justice Department this past spring and summer sent notification to the State of Oklahoma on a bill that was in the legislature, threatening the State of Oklahoma if they passed that bill. Well, 13 other States have identical bills, or laws, on what was being passed in the legislature in Oklahoma, and it will come to a vote of the people. So the legislature passed it, and it will come to the vote of the people this November. But they sent a threatening letter. They won't answer our letter asking how many other States have

you sent that letter to. They didn't. It was about discussing whether an individual has any personal responsibility to be able to communicate.

Finally, we have the Justice Department refusing to answer questions about true voter intimidation and the dropping of a case where that occurred. You cannot be on both sides of the civil rights issue. You can't say it is good over here but not over there. Denying people or manipulating voters has as great an impact on individual civil rights as any other thing.

I come to the floor not to say Mr. Perez is not a fine man. But it is his kind of thinking that expands well beyond what our Founders ever thought was a guaranteed civil right. I readily admit that our Founders were wrong on several of those issues. But when we expand it beyond the case, that goes away from personal responsibility and accountability. There is a balance, and we need to protect everybody's civil rights in this country. We are having a human rights hearing in the Judiciary Committee right now on some of these very issues.

Mr. Perez's extreme views, in fact, are that if States have English-only laws, he will go after that, and if we don't have the same viewpoint he has, rather than what the Constitution says and what the precedent from court hearings says, I think that will not lead to an outcome that will be favorable for our country.

I will finish up by saying our problems are gigantic. They are not simple. There are not simple answers.

The condition in which we find ourselves is from excess—whether it is excess earmarking, excess program, lack of oversight, or the excess of one hardened position over a balanced system that protects human rights but also does not destroy our system. I believe although Mr. Perez is qualified, his foundational biases should eliminate him from this position.

I again thank my colleague from Maryland. He has been very accommodating during this course. I had lifted previously my hold on Mr. Perez, and I think he knows that. But I am concerned with the direction of his leadership and what it will mean in terms of where we go as a country.

I yield the floor.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. CARDIN. Madam President, I thank my friend from Oklahoma for his cooperation as we have moved this nomination to the Senate floor and will have a vote today. I thank him for the manner in which he handled his concerns, his willingness to meet with Mr. Perez, and to talk openly about these issues.

He and I may disagree on one fundamental principle; that is, I think civil rights is a basic responsibility of the Federal Government to enforce. I think every person in this country should have the opportunities that are granted in America. I want to make sure our

government actively pursues a civil rights agenda because I think that is important to protect everyone's rights.

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

Mr. CARDIN. I am glad to yield.

Mr. COBURN. Through the Chair, I ask the Senator, my problem is not with that; I agree with the Senator on that. My question is as we carry out expansion beyond that in terms of Executive orders that are not in the law but are Executive orders that we have never ruled on, and then we are going to consider that.

Specifically I ask him, does he recognize the estimated \$6 billion cost in the health care system if, in fact, Mr. Perez's interpretation of that Executive order was carried to its fullest extent by making translation services available to anybody of any language at any time throughout the whole country? That would be my question. I appreciate his thought.

Mr. CARDIN. Madam President, I thank my colleague for the question. Tom Perez, in our discussions, said he would clearly use a reasonable standard. I might point out that the Executive order to which the Senator is referring was strengthened both under the Clinton administration and Bush administration. President Bush's administration also believed this was an important provision. The Senator is correct.

I also point out in regard to the understanding of English, Tom Perez comes from an immigrant family and believes very strongly that everyone should learn English; that it is an important part of our country. He has expressed that openly. He also has indicated that we should be doing more to help immigrant families be competent in English.

The issue here deals with the receipt of health care. One has to be able to communicate. One has to be able to communicate with the people with whom one comes in contact. We know that is one of the key issues on quality care. It was for that reason that both the Clinton administration and the Bush administration adopted regulations to deal with the ability to communicate when people enter our health care system.

Mr. Perez has indicated in interpreting that regulation that a reasonable test must be complied with, but it is certainly an important issue in dealing with quality care.

Let me, if I may, quote one of the individuals who has recommended to us that we confirm Mr. Perez as the head of the Civil Rights Division and compliments President Obama on his choice; that is, the former Secretary of the Department of Health and Human Services under George Bush. I am referring to Dr. Sullivan. Dr. Sullivan states:

Tom Perez is a nationally recognized civil rights lawyer who enjoys an impeccable reputation as someone who is knowledgeable, inclusive, effective, and even-handed. He is

an ideal nominee for Assistant Attorney General for Civil Rights.

I point out it is unfair to judge Mr. Perez on an Executive order, and I think that Executive order is an important part of our health care in this country. He, as the enforcer of our civil rights, will enforce that Executive order because he knows it is important in protecting the civil rights of the people who are in America. But he also has a reputation for doing that in a fair manner, an effective manner, and an evenhanded manner. That should be the judgment that we use in this body as to whether to support his confirmation.

I think third party validators have made it clear that Tom Perez is a person who will exercise that judgment correctly. I hope my colleagues will support his confirmation on the floor of the Senate.

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

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

Mr. SESSIONS. Madam President, I wish to address the nomination of Thomas Perez to be Assistant Attorney General for the Civil Rights Division at the Department of Justice.

That is an important position. It requires ability and experience and fairness. I think President Obama, as all Presidents, is entitled to some deference in selecting executive branch nominees such as this one. I have come to the conclusion after some contemplation that I am not able to support this nominee. I do not desire that his nomination be delayed unless there will be some additional matters that need to be looked at of which I am not now aware. So I am prepared to vote up or down. I know we have only one vote, and that is a question of cloture, whether to bring this nomination up for an up-or-down vote.

I guess I am at a point where I don't feel comfortable voting either way on that if we don't have any other votes. I will wrestle with that decision.

The Civil Rights Division of the Department of Justice is charged with protecting the civil rights of all Americans. It is an important division. As such, it is critical that the division be free from partisanship and not be used as a tool to further an agenda of one group or another, one ideology or another.

The President has chosen this nominee, someone who has a record of and a reputation for very strong political activity. That is not disqualifying, but it is a matter I am concerned about because I am concerned about this division.

In reviewing Mr. Perez's past statements and his record, I am concerned

whether he is capable of putting aside partisan beliefs and whether he is, therefore, suited to head the Civil Rights Division of the U.S. Department of Justice.

Over the past several months, news reports have raised concerns that decisionmaking at the Department and the Civil Rights Division in particular have been based on politics and not on protecting civil rights. I hate to say that, but real objections have been raised.

In May, the Justice Department voluntarily dismissed a lawsuit that it had won against the New Black Panther Party. During the last election, two of that group's members had dressed in military-style uniforms and intimidated voters outside a Philadelphia voting place.

A long-time civil rights activist who was there and who saw it, Bartle Bull, called it "an outrageous affront to American democracy and the rights of voters to participate in an election without fear."

On July 30, the Washington Times reported that a political appointee, Thomas Perrelli, the Associate Attorney General of the Department of Justice, and third in charge of that great Department, approved the decision to suddenly reverse course and drop the complaint. Many people have seen the video of that utterly unacceptable activity by the New Black Panther Party. Mr. Perrelli's decision to allow this voter intimidation to go unprosecuted stands in stark contrast to his statements made during the nomination process when he stated:

I agree that both civil and criminal laws for governing the conduct of elections should be enforced.

Of course, that is fundamental.

In May, the Members of the House Judiciary Committee sought an explanation from the Department. They had taken a judgment in the case, senior career prosecutors had, against this group. The question was, apparently they began a discussion of giving it away, setting it aside—a judgment they had already taken. Eventually that is what the Department did, through some maneuvers that I do not think are consistent with the normal processes of the Department of Justice. They found one group within the Department whose responsibility did not include making these kinds of decisions, they made a decision that it was okay to set aside the judgment against them, a civil judgment, I think, that they had taken. It was not good.

The House Judiciary Committee, our colleagues, demanded an explanation. The responses of the administration were vague and incomplete. In addition, the independent U.S. Commission on Civil Rights has demanded that the Justice Department explain the dismissal of that lawsuit, but the administration rebuffed the request, claiming that the Department decided to investigate the case internally through its Office of Professional Responsibility. The Department of Justice claims it

cannot provide information to anyone on the outside until that internal investigation is complete.

Based on the lack of document production and lack of answers from the Department of Justice, on September 30, the Civil Rights Commission Chairman, Gerald Reynolds, wrote to Attorney General Holder, repeating his request for information on previous voter intimidation investigations so the Commission could determine whether the Department's reversal of course in this case constituted a change in policy and what the implications of this would be.

Chairman Reynolds also pointed out that:

[M]any aspects of the Commission's inquiry have no connection with the matter, subject to the OPR jurisdiction . . .

And that if the Department were nonresponsive, the Commission would be forced to propound interrogatories and interview requests directly on affected Justice Department personnel.

So even the independent Commission on Civil Rights is concerned about this. If you care about voting rights, how did this happen that we dismiss a case when there is a video of one of the most blatant intimidations you can imagine at a polling place? Serious questions have arisen. Was the dismissal of the case a blatant partisan political move by the Department of Justice? Was this Black Panther group protected because they were on the right side of the election? If so, it implicates serious dangers for voter intimidation prosecutions in the future, I suggest. Before we vote to approve Mr. Perez as head of the Division of Civil Rights, the Senate needs to know how he will conduct the office.

Unfortunately, this kind of issue is only one of the important issues he will be facing. In June, it became apparent that the Justice Department would work against commonsense measures by States to ensure that only citizens would be allowed to vote in elections. The Supreme Court has held that States can pass and enforce voter identification laws to protect the integrity of elections. Yet according to the Associated Press, the Civil Rights Division under Attorney General Holder has:

. . . rejected Georgia's system of using Social Security numbers and driver's license data to check when prospective voters are citizens.

Rather than working alongside the State of Georgia to ensure that only citizens are allowed to vote, which would be a good goal and role for the Department of Justice, the Department has worked to ensure that the system remains broken. As the Georgia Secretary of State has observed:

The Department of Justice has thrown open the door for activist organizations such as ACORN to register noncitizens to vote in Georgia elections, and the State has no ability to verify an applicant's citizenship status or whether the individual even exists. The Department of Justice completely disregarded Georgia's obvious and direct interest in preventing noncitizens from voting.

Clearly, politics took priority over common sense and good public policy.

The Georgia Secretary of State said that. That is a serious charge. This is very troubling.

There seems to be a view by some that the more people who vote, the better elections are; that voting in itself is a good thing and we should want more and more people to vote. Of course, we want all eligible people to vote. It seems to be implicit in this argument that it matters little if the people who vote are illegal or the votes cast are fraudulent votes. But I contend, I think without much dispute, it is as damaging to a fair election to allow someone to vote who is not eligible or someone to vote twice, fraudulently, or someone to vote for someone who did not show up on election day and slip into the ballot box and say: I am John Jones and vote for that person—that does as much damage to the integrity of elections as if an individual somehow were wrongfully denied the right to vote in the outcome of an election.

I would be the first to acknowledge that in our past we have, and particularly in the South, had blatant examples, before the Voting Rights Act predominantly, when people were blatantly denied the right to vote. It was a stain on our election process and a stain on the integrity of that process. But this is a time we need to be working together to make sure every vote is honest and fair and not fraudulent.

Another example of apparent politics at play in the Civil Rights Division occurred in Missouri, where the Department has quietly refused to continue an existing ongoing lawsuit that was brought under the National Voter Registration Act. That lawsuit was brought 4 years ago to enforce a provision that required States to clean up their registration lists to prevent voter fraud. According to commentator Hans von Spakovsky:

When the suit was filed in 2005, one-third of the counties had more registered voters than voting-age residents. One county's list was 153 percent of the Census count. And the State had done virtually nothing to clean up its rolls.

Fast forward to March. There remains no evidence that the voter registration rolls in most Missouri counties have been purged of their thousands of nonresidents and decedents. Registration numbers from the November elections show that there are still more than a dozen Missouri counties with more registered voters than voting-age residents.

Yet rather than continuing the case to ensure that Missouri cleans up its voter registration rolls, the Department of Justice refused to pursue the case and dropped it, a distressing sign to me that it does not take the integrity of the voting process seriously—certainly not seriously enough. Is the Department of Justice committed to integrity in the process? Or just allowing anybody who wants to walk in and vote to vote? Of course, these decisions have been made by the Civil Rights Di-

vision before Mr. Perez has been confirmed, that is certainly true. He does not have any culpability in these actions. But it just raises concerns of mine about: Is he committed to fixing it? Will he correct these kinds of decisions? Is he committed to fairness, regardless of political impact in an election? There are important rules in voting. Those rules must be followed.

Will he reinstate the case in Philadelphia where there was a clear indication of threats and intimidation against voters? Will he correct the course that the Civil Rights Division has taken in undermining common-sense voter identification laws? Will he reinstitute National Voter Registration Act lawsuits to ensure that States clean up their voter rolls to prevent voter fraud?

The way this happens is you have a large number of names on a voter roll and a voting precinct and that creates a real danger, if you don't have identification, if you don't require the voter to produce any identification, the person walks in there and says: John Jones?

I am John Jones.

OK, you get to vote, and he votes.

He goes to the next voting place, he knows somebody's name is on the list who is not allowed or not in the district or not going to vote that day, and he says: I am Ralph Smith and he signs and votes and goes in again and again and again and people have been known to travel all over multiple precincts casting votes in the names of persons not their own name. It is fraudulent. It demeans the integrity of the entire election process as much as if the person had wrongly been denied the right to vote.

I am concerned where Mr. Perez will be in this. He has been pretty active politically. When he ran for the Montgomery, MD, county council he responded to a question asking "What would you like the voters to know about you?" Mr. Perez said: "I am a progressive Democrat and always was and always will be."

This is a free country and that is all right. I am just saying, in all fairness, that statement makes me a little nervous.

As a councilman, Mr. Perez expressed disdain for Republicans, at one point, according to the report, giving "a 5-minute speech about how some conservative Republicans do not care about the poor."

In an April 3, 2005, Washington Post article, Mr. Perez was described as "about as liberal as Democrats get."

I am also concerned Mr. Perez will not be committed to fully enforcing our Nation's immigration laws, some I have worked hard on. We need to create a lawful system of immigration. We cannot continue in this lawless method as we are, and one of the first things you do to reduce illegal immigration is you stop rewarding people who violate our laws to come here. He previously served as the President of the Board of

CASA de Maryland, an immigrant advocacy organization that has taken some extreme views and been criticized by a number of people in the media. CASA de Maryland issued a pamphlet instructing immigrants confronted by the police to remain silent. CASA also promotes day labor sites. This is where people, often without lawful status, come and seek work and opposes restrictions on illegal immigrants receiving drivers licenses. He was President of the Board.

Mr. Perez, himself, has spoken in favor of measures that would assist illegal aliens in skirting U.S. immigration laws. For example, as a councilman in 2003, Mr. Perez supported matricula consular ID cards issued by Mexico and Guatemala as a valid form of identification for local residents who worked and used services, without having any U.S.-issued documents to prove their identity.

Of course, after a good bit of examination and public discussion, those matricula cards were shown to be unreliable, and that is an unworkable way to determine the legal status of someone. But he was a defender of the matricula cards, which I think is troubling given the position he will be seeking to assume.

He also supported a bill granting instate tuition rates to illegal immigrants in Maryland and stated:

We have a legal obligation to make the same commitment to hundreds of immigrant high school students who have made Maryland their home.

We don't have a legal obligation to give people who are illegally in the country tuition and certainly not cheaper instate tuition than our out-of-state tuition.

Although Mr. Perez has taken many of these positions while acting in a political capacity—and there is a distinction between that political advocacy and being the head of the Department of Justice's Civil Rights Division—I do think it is reasonable for us to be concerned about whether he will use the Department of Justice's resources to advance his ideas and an agenda that is not consistent with the highest ideals of civil rights.

I don't believe establishing lawful rules of immigration or lawful rules for voting is unfair and contrary to civil rights. Indeed, they are a cornerstone. The law is civil rights in a true sense.

So I am concerned, and we are going to be watching to ensure that the Civil Rights Division not be politicized. It must work to protect the rights of all Americans regardless of their political party, their race, or background.

Given the very political decisions apparently being made now in the Department of Justice, I think it takes someone committed to rising above this kind of activity and to right the ship.

I have talked with him. I enjoyed that conversation. I certainly have no ill will toward Mr. Perez personally.

But I have to say, I think it is important that we have honesty in voting, I think it is important that we have a legal system that works with regard to immigration, and at this point I am not convinced Mr. Perez has demonstrated he has the will to do those things, and that is what troubles me about the nomination.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. LEAHY. How much time is available on our side?

The PRESIDING OFFICER. Nineteen minutes.

Mr. LEAHY. I was going to speak, but I see the distinguished Senator from Maryland, who has done a superb job in this matter, and I would yield him 5 minutes. If he needs more time, I will yield more time.

Mr. CARDIN. Let me thank the distinguished chairman of the Judiciary Committee for the way he handles the matters that are brought to the floor, the way he handled the nomination of Tom Perez, allowed all sides an opportunity to get all the information they wanted. It was done in a very fair manner, and I compliment him on his leadership on this appointment.

I wish to comment briefly on Senator SESSIONS' points relating to several issues.

First, in regard to voting rights, I am in complete agreement with Senator SESSIONS that I want the Civil Rights Division and its leadership to deal with the concerns we have of voting in this Nation.

I am very disappointed that the previous administration basically didn't bring any cases to allow people who were intimidated to be able to cast their votes. We have had serious problems of groups sending out notices on the wrong date of when the elections take place, targeted to minority communities. We have had episodes where letters were sent to minority communities threatening that if they tried to vote and had outstanding parking tickets, they could be arrested. We have seen intimidation. I have been a victim myself of that type of activity in my campaign for the U.S. Senate where on the day before the election fraudulent literature was handed out trying to mislead minority voters.

So I want the next head of the Civil Rights Division to be actively involved in protecting our right to vote. I would hope my colleague from Alabama would join me in trying to strengthen the laws. We had a bill that then-Senator Obama presented that I joined with Senator SCHUMER and others to give the Department of Justice more power to make sure those types of fraudulent activities can't take place.

I would welcome the support of my friends on the other side of the aisle for this important legislation. Let's work together to make sure every eligible voter has the opportunity to cast their vote and have it counted without intimidation. I know that is certainly

going to be a major goal of the Civil Rights Division under the leadership of Tom Perez.

My friend from Alabama mentioned the Black Panther case. Well, let me point this out: The decision in that case was made by a career attorney, not by a political appointee. And that is what I would hope all of us would want from the Civil Rights Division, that we take partisan politics out of that division, as it was so apparent under the previous administration. Tom Perez is committed to allowing career attorneys to make those types of decisions. And quite frankly, there was an injunction to prevent one of the defendants from that activity. So I think we should look at the record and look at what we are trying to achieve. Let's not use labels. Let's look at the issues and not labels. Look at his record.

On the immigrant issue, let me point out that Tom Perez is firmly committed to enforcing the laws in a fair, evenhanded manner. His 10-year record at the Justice Department is the best evidence of that commitment.

Quite frankly, I am going read into the RECORD endorsements because I think third-party validators are a good way for us to know what type of person we have in Tom Perez. The Judiciary Committee received letters of support from a number of former assistant attorneys general to the Civil Rights Division at the Department of Justice, including Bill Lann Lee, John Dunne, Deval Patrick, Stanley Pottinger, Stephan Pollak, James Turner, Ralph Boyd, and Wan Kim. Several were appointed under Republican administrations. This is a quality person who has the confidence of those who know of his professionalism in moving forward the Civil Rights Division under its traditional leadership in this country.

Lastly, I ask unanimous consent to have printed in the RECORD letters we have received from law enforcement officials and organizations, including Colonel Terrance Sheridan, the superintendent of the Maryland State Police; Tom Manger, chief of police from Montgomery County, MD; Raymond Knight, sheriff for Montgomery County, MD; and the State Law Enforcement Officers Labor Alliance of Maryland, and others.

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

BOROUGH OF HALEDON COUNCIL,
Haledon, NJ, April 3, 2009.

Hon. PATRICK J. LEAHY,
Chairman, Senate Judiciary Committee, Dirksen Senate Office Building, Washington, DC.

DEAR CHAIRMAN LEAHY: I congratulate President Barack Obama and Attorney General Eric Holder for nominating Thomas Perez for Assistant Attorney General of the Civil Rights Division. There is no doubt that Mr. Perez's qualifications and record are outstanding. Mr. Perez will lead gracefully the division of the Department of Justice responsible for enforcing federal statutes prohibiting discrimination particularly those statutes that protect the voting rights of our diverse populations. As you know, prior to his

election to the Montgomery County Council in 2002, Perez served as deputy assistant attorney general for civil rights, and director of the Office for Civil Rights for the Department of Health and Human Services in the Clinton administration.

I am aware that one of Perez's most important tasks will be enforcing the Voting Rights Act, one of the most successful enactments of the U.S. Congress in the previous century. It provided millions of African-Americans with the right to register and vote. It also gave African Americans the power to elect candidates of their choice, in turn providing African Americans with a voice in government and the decision making process. The Voting Rights Act has had a positive, albeit less dramatic effect on the election of Latino public officials. According to the US Census Bureau the estimated Hispanic population of the United States as of July 1, 2003, is 39.9 million, making people of Hispanic origin the nation's largest race or ethnic minority. This number is expected to rise significantly in the near future, and does not include the 3.9 million residents of Puerto Rico. It is imperative that the Latino population be better represented in government, and in the electoral process.

I strongly support Mr. Perez for Assistant Attorney General, and I am confident that he will work with Congress and administration officials to fortify the federal voter registration and election reform laws. With his experience, commitment, and knowledge, Thomas Perez will help to eliminate inequitable barriers in the electoral process; and make certain the Civil Rights Division carefully scrutinizes state redistricting efforts following the 2010 Census.

Sincerely,

REYNALDO R. MARTINEZ,
Councilman.

MARYLAND STATE POLICE,
Pikesville, Maryland, April 23, 2009.

Hon. PATRICK J. LEAHY,
U.S. Senate, Committee on the Judiciary, Dirksen Senate Office Building, Washington, DC.

DEAR SENATOR LEAHY: I am writing to provide you with a favorable recommendation for Mr. Tom Perez for the position of Assistant Attorney General, Civil Rights Division, Department of Justice. I have had the privilege and pleasure of working with Tom Perez for the past two years in his capacity as the Secretary of the Maryland Department of Labor, Licensing and Regulation (D.L.L.R.). During this time, Tom was instrumental in assisting the Maryland law enforcement community in its seven year endeavor to enact regulatory legislation which requires secondhand precious metal dealers and pawn brokers to report transactions electronically. Tom's stewardship of this legislation through the General Assembly was key to its passage during the 2009 Legislative Session.

Under Tom's leadership, his D.L.L.R. staff has collaborated with various Maryland law enforcement entities to provide training on the regulatory laws controlling scrap metal, pawn, secondhand precious metal, jewelry and traveling gold shows. Additional educational initiatives directed by Tom toward the industries regulated by his agency have resulted in the affected businesses to become more compliant with the state's regulations and to work more closely with law enforcement. As such, D.L.L.R. and law enforcement have become good partners in enforcing the regulations and laws controlling these industries.

Tom Perez has also been most helpful to the Maryland Department of State Police and the citizens of this state by working closely with businesses who were facing layoffs and downsizing by providing information

on recruiting by Maryland Department of the State Police. During these economic times, Tom has shown care and compassion toward those in need of his assistance.

Tom truly is an honorable man. I would add that Tom has always been fair and honest in our conversations. If he disagreed with a position, he would foster open discussion and listen to opposing viewpoints. In the end, Tom would never allow policy differences interfere or influence a relationship. I believe Tom Perez is an excellent choice for the position of Assistant Attorney General, Civil Rights Division, Department of Justice. He is a proven leader who can make a difference and has a long history of ensuring the rights of Americans are protected. Thank you again for allowing me the opportunity to provide you with my recommendation of Tom Perez for this most important position.

Sincerely,

TERRENCE B. SHERIDAN,
Superintendent.

DEPARTMENT OF POLICE,
MONTGOMERY COUNTY, MD.
Rockville, MD, April 23, 2009.

Hon. ARLEN SPECTER,

U.S. Senate,

Washington, DC.

Hon. PATRICK LEAHY,

U.S. Senate,

Washington, DC.

DEAR SENATORS SPECTER AND LEAHY: I am writing to wholeheartedly support the nomination of Thomas Perez for the position of Assistant Attorney General for Civil Rights. During Mr. Perez's tenure as a Montgomery County (Maryland) Councilman, I was impressed by his integrity, intellect and work ethic. He was a public servant in the truest sense of the word. Mr. Perez brings an ability to tackle complex problems and issues with consensus and common sense.

Mr. Perez is a public-safety advocate and brought his experience as a civil-rights attorney to benefit the Montgomery County Police Department. His assistance in training our senior police officials was very well received.

The Civil Rights Division of the Department of Justice requires someone with high ethical standards and a strong legal mind. Mr. Perez superbly fits the bill. I urge you to support his appointment.

Sincerely,

J. THOMAS MANGER,
Chief of Police.

OFFICE OF THE SHERIFF,
MONTGOMERY COUNTY, MD.
Rockville, MD, April 21, 2009.

Re recommendation for Thomas E. Perez.

Hon. PATRICK J. LEAHY,

U.S. Senate, Committee on the Judiciary, Dirksen Senate Office Building, Washington, DC.

DEAR SENATOR LEAHY: I first met Tom Perez following his election to the Montgomery County (Md.) Council in 2002. At that time I was not familiar with his distinguished career as a federal prosecutor, Deputy Assistant Attorney General for Civil Rights, and law school professor. But between 2002 and 2006, as Montgomery County Sheriff, I was fortunate to be able to work with Tom on numerous public safety and fiscal matters affecting the operation of the Sheriff's Office.

I became impressed with Tom's ability to quickly assess the nuances of complex law enforcement, budgetary and employment law issues. He addressed public policy issues with fairness, and in a manner that recognized and balanced the diverse positions involved in governmental decision making.

Tom's appointment as Secretary of the Maryland Department of Labor, Licensing and Regulation gave him an opportunity to use his expertise to confront problems generated by the current housing foreclosure crisis. Again he was able to craft legislative solutions that recognized and successfully addressed the respective concerns of consumers and commercial interests.

Speaking as a lifelong law enforcement officer and official, I would be delighted to witness Tom's confirmation and swearing in as the Assistant Attorney General, Civil Rights Division, Department of Justice.

Please accept my appreciation for your consideration of my views on this matter.

Sincerely,

RAYMOND M. KIGHT,
Montgomery County Sheriff.

STATE LAW ENFORCEMENT
OFFICERS LABOR ALLIANCE,
Annapolis, MD.

On behalf of State Law Enforcement Officers Labor Alliance (SLEOLA), I am writing to express support for Tom Perez to become the next Assistant Attorney General for Civil Rights in the Department of Justice. Having seen his work ethic and fair mindedness at work at Maryland's Department of Labor, Licensing and Regulation (DLLR), we would like to see him bring that same approach to this vitally important Justice Department position.

The SLEOLA's primary purpose is to unite into one labor organization all eligible organizations whose members are employed with the Maryland State Police, the Natural Resources Police, the State Forest and Park Service, the Maryland Department of General Services and the Maryland State Fire Marshal. One of our constituent groups is the Department of Labor, Licensing and Regulation Police Force. This is a small contingent of sworn officers responsible for security at DLLR in Baltimore.

Our officers who work with Secretary Perez see firsthand the dedication he has to the mission of DLLR and the people of Maryland. DLLR is experiencing a renaissance, and it is easily attributed to Secretary Perez's tenure. He displays the character and integrity that make us confident he will bring the kind of rejuvenation we saw at DLLR to the Department of Justice.

We believe Tom Perez will make an excellent Assistant Attorney General for Civil Rights, and urge you to confirm his nomination.

Sincerely,

JIMMY DULAY,
President.

Mr. CARDIN. We have a quality person who will return the Department of Justice Civil Rights Division to its historic role, increasing the morale and professionalism in that Department. I am proud to support him and urge my colleagues to do the same.

I thank the chairman of the committee for yielding me time.

The PRESIDING OFFICER. The Senator from Vermont is recognized.

Mr. LEAHY. I applaud the distinguished Senator from Maryland. He has been a star in the Senate Judiciary Committee, and his support of Tom Perez is one of the reasons Mr. Perez went through our committee with an overwhelming vote.

Incidentally, we do have letters of support. One I have which is very meaningful—and I think the Senator from Maryland would agree—is the letter we received from Senator Kennedy,

the late Senator Kennedy. While this matter is pending, I ask unanimous consent to have the letter from the late Senator Kennedy printed in the RECORD, as well as letters of support from numerous attorneys general, including the attorney general of Vermont.

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

U.S. SENATE,
Washington, DC, April 16, 2009.

Hon. PATRICK LEAHY,
Chairman, Senate Committee on the Judiciary,
Washington, DC.

Hon. ARLEN SPECTER,
Ranking Member, Senate Committee on the Judiciary, Washington, DC.

DEAR PAT, ARLEN AND MEMBERS OF THE COMMITTEE: I write to enthusiastically endorse Tom Perez's nomination to be Assistant Attorney General for Civil Rights in the Department of Justice. As you know, Tom did an excellent job for me from 1995 to 1998, on my Judiciary Committee staff when I was a member of the Committee. I believe he's an exceptional choice for Assistant Attorney General, and I urge his prompt confirmation.

During Tom's impressive service on my staff, he worked hard and well on civil rights, hate crimes, and a variety of immigration, criminal and constitutional issues. Work on civil rights has been at the core of Tom's career, which began as a prosecutor in the Criminal Section of the Civil Rights Division, where he helped bring to justice the perpetrators of hate crimes, including racially-motivated shootings. He also prosecuted law enforcement officials involved in violent and corrupt practices, and his work as a career prosecutor earned him promotion to deputy chief of the Criminal Section.

After serving on my staff, Tom returned to the Civil Rights Division as a Deputy Assistant Attorney General, supervising the Division's criminal prosecutions, and its litigation in the areas of education and employment discrimination. He had a key role in establishing the interagency Worker Exploitation Task Force, which coordinated enforcement of laws against involuntary servitude and trafficking in persons.

In 1999, Tom became Director of the Office for Civil Rights at the Department of Health and Human Services, where he led a staff of 230 people in ensuring that health and human services providers complied with civil rights laws.

Upon leaving the federal government in 2001, Tom became a professor of law at the University of Maryland School of Law. Motivated by his strong desire to make a difference in peoples' lives, Tom also was elected to the Montgomery County Council in Maryland, and became a leader in promoting affordable housing and affordable health care, as well as improvements in education. Finally, for the past two years, Tom has served as Secretary of Maryland's Department of Labor, Licensing and Regulation.

A main unifying theme of Tom's career is his desire to help people, by ensuring that their rights are protected and that they receive the services they need. His commitment to public service and his ability to be effective in both executive and legislative positions is impressive. He has been energetic in seeking change, and working cooperatively with others to achieve it.

A second main theme of Tom's career has been his exceptional performance as a lawyer. He's been highly successful as a prosecutor, as a lawyer serving this Committee, as a Deputy Assistant Attorney General and

as a law professor. Importantly, Tom understands the role of a government lawyer. Having been a career attorney in the Department of Justice, he knows the importance of developing effective working relationships with career employees and making sure that law enforcement decisions are made on the basis of the facts and the law, without favoritism based on partisanship or ideology. In light of the challenges that the Department of Justice, and especially the Civil Rights Division, have faced in recent years, these are indispensable qualities in an Assistant Attorney General for Civil Rights.

Tom's outstanding legal skills, his years of impressive experience as a prosecutor, his career-long commitment to enforcing civil rights, and his thorough familiarity with the legal and policy issues in the Civil Rights Division make him uniquely well qualified to lead the Division now. I strongly urge the Committee to report his nomination favorably.

Sincerely,

EDWARD M. KENNEDY.

STATE OF NEW JERSEY, OFFICE OF
THE ATTORNEY GENERAL, DEPARTMENT
OF LAW AND PUBLIC SAFETY,
Trenton NJ, April 23, 2009.

Hon. PATRICK J. LEAHY,
Chair, U.S. Senate Committee on the Judiciary,
Dirksen Senate Office Building, Wash-
ington, DC.

Hon. ARLEN SPECTER,
Ranking Member, U.S. Senate Committee on the
Judiciary, Dirksen Senate Office Building,
Washington, DC.

DEAR CHAIRMAN LEAHY AND RANKING MEM-
BER SPECTER: I am writing to express my
support for the nomination of Thomas E.
Perez for Assistant Attorney General for the
Civil Rights Division of the United States
Department of Justice. Mr. Perez is excep-
tionally qualified to lead the Division, pos-
sessing demonstrated and impeccable legal,
management, and leadership skills.

I served in the Department of Justice's
Civil Rights Division, Criminal Section,
from 2001 to 2005, and I remain engaged with
the Department through participation in the
Executive Working Group. Currently, as At-
torney General for the State of New Jersey,
I am the chief law enforcement officer in the
State, with a mandate to enforce the State's
civil rights and criminal laws. I know Mr.
Perez to be a committed, dedicated, and
highly effective advocate and prosecutor. I
look forward to working with Mr. Perez in
addressing shared federal and state civil
rights priorities.

Mr. Perez will bring a breadth of advocacy,
policy, and leadership experience to the Di-
vision. He has had a distinguished career in
the Department of Justice, serving in several
roles in the Division. He has prosecuted civil
rights cases in the Criminal Section and, as
the Deputy Assistant Attorney General for
Civil Rights, oversaw the Division's complex
criminal, education, and employment litigation.
Since leaving the Department, Mr.
Perez has continued his commitment to pub-
lic service as a faculty member at the Uni-
versity of Maryland School of Law and as a
member of the Montgomery County Council.
In his current capacity as Secretary of the
Department of Labor, Licensing and Regula-
tion in Maryland, Mr. Perez has gained valu-
able experience and insights into the prior-
ities and workings of state government,
which complements his considerable federal
and local leadership experience.

For these reasons, I am pleased to recom-
mend Mr. Perez to the Committee. Please
feel free to contact me if you have any ques-
tions.

Sincerely yours,

ANNE MILGRAM,
Attorney General.

Hon. PATRICK J. LEAHY,
Chairman, Committee on the Judiciary, U.S.
Senate, Dirksen Building, Washington, DC.
Hon. ARLEN SPECTER,
Ranking Member, Committee on the Judiciary,
U.S. Senate, Dirksen Building, Washington,
DC.

DEAR CHAIRMAN LEAHY AND RANKING MEM-
BER SPECTER: As the chief law enforcement
officers of our respective states, we write to
express our strong support for the nomina-
tion of Thomas Perez for Assistant Attorney
General for the Civil Rights Division of the
United States Department of Justice. We
urge his confirmation.

Secretary Perez's qualifications and cre-
dentials are exceptional. He is a nationally
recognized civil rights lawyer whose breadth
and depth of experience make him an ideal
choice to lead the Civil Rights Division. He
knows the Division well, having worked
there for almost a decade in a variety of crit-
ical positions. As a prosecutor in the Divi-
sion, he was lead attorney in some of the De-
partment's most high profile and complex
civil rights cases. As Deputy Assistant At-
torney General for Civil Rights, he oversaw
complex litigation in the employment and
education areas.

In Maryland, Secretary Perez, in his cur-
rent capacity as Secretary of Maryland's De-
partment of Labor, Licensing and Regula-
tion, has played a key role in the state's re-
sponse to the ongoing mortgage crisis. He
negotiated agreements with six major mort-
gage servicing companies to provide relief to
Maryland homeowners in danger of fore-
closure. One of the largest ongoing mortgage
fraud prosecutions in the nation originated
in Secretary Perez's office. With housing at
the top of the Department of Justice's agen-
da, Secretary Perez will be well-situated to
play a major role.

He has held leadership positions in federal,
state and local government, and has worked
in all three branches of the federal govern-
ment. As such, he has an acute under-
standing of the need for the federal govern-
ment to work in partnership with state and
local governments to safeguard the civil
rights of all Americans.

Heading the Civil Rights Division, like
running an Attorney General's office, re-
quires extensive legal, management and
leadership skills, as well as extensive experi-
ence in building coalitions. Secretary Perez
has led important agencies. He currently
heads a Department of about 1600 employees,
and has held other senior positions in the
federal government. He has a well-earned
reputation as someone who listens, learns
quickly, builds consensus, and leads effec-
tively.

Mr. Perez's distinguished career dem-
onstrates his leadership abilities, integrity
and commitment to public service. We are
confident that Mr. Perez would be an excep-
tional Assistant Attorney General for the
Civil Rights Division and urge you to con-
firm his nomination.

Sincerely,

TERRY GODDARD,
Attorney General of
Arizona.

TOM MILLER,
Attorney General of
Iowa.

MARTHA COAKLEY,
Attorney General of
Massachusetts.

JON BRUNING,
Attorney General of
Nebraska.

MARK SHURTLEFF,
Attorney General of
Utah.

ROB MCKENNA,
Attorney General of
Washington.

WILLIAM H. SORRELL,
Attorney General of
Vermont.

APRIL 29, 2009.

Hon. PATRICK LEAHY,
Chairman,
Committee on the Judiciary.
Hon. ARLEN SPECTER,
Ranking Member,
Committee on the Judiciary.

DEAR CHAIRMAN LEAHY AND RANKING MEM-
BER SPECTER: As the chief law enforcement
officers of our respective states, we write to
express our support for the nomination of
Thomas Perez for Assistant Attorney Gen-
eral for the Civil Rights Division of the
United States Department of Justice. We be-
lieve that Mr. Perez has the experience,
knowledge, and abilities to lead this impor-
tant Division.

Secretary Perez would bring exemplary ad-
vocacy, leadership, and prosecutorial experi-
ence and qualifications to the Civil Rights
Division. He is an experienced and nationally
recognized civil rights lawyer who knows the
Division well, having worked in it for almost
a decade in a variety of critical positions. As
a prosecutor in the Division, he was lead at-
torney in some of the Department's most
high profile and complex civil rights cases.
As Deputy Assistant Attorney General for
Civil Rights, he oversaw complex litigation
in the employment and education areas.

In Maryland, Secretary Perez has dem-
onstrated a keen understanding of State gov-
ernment in his current position as Secretary
of the Department of Labor, Licensing and
Regulation. In this capacity, he has played a
key role in the state's response to the ongo-
ing mortgage crisis. He negotiated agree-
ments with six major mortgage servicing
companies to provide relief to Maryland
homeowners in danger of foreclosure. One of
the largest ongoing mortgage fraud prosecu-
tions in the nation originated in Secretary
Perez's office. With housing at the top of the
Department of Justice's agenda, Secretary
Perez will be well-situated to play a major
role and to foster partnership with state and
local governments to safeguard the civil
rights of all Americans.

Heading the Civil Rights Division, like
running an Attorney General's office, re-
quires extensive legal, management, and
leadership skills, as well as extensive experi-
ence in building coalitions. Secretary Perez
has led important agencies. He currently
heads a Department of about 1600 employees,
and has held other senior positions in the
federal government. He has a well-earned
reputation as someone who listens, learns
quickly, builds consensus, and leads effec-
tively.

Mr. Perez's distinguished career dem-
onstrates his leadership abilities, integrity
and commitment to public service. We are
confident that Mr. Perez would be an excep-
tional Assistant Attorney General for the
Civil Rights Division and urge you to con-
firm his nomination.

Sincerely,

Patrick Lynch, Rhode Island Attorney
General; Richard Blumenthal, Con-
necticut Attorney General; Alicia G.
Limtiaco, Guam Attorney General;
Mark J. Bennett, Hawaii Attorney
General; Tom Miller, Iowa Attorney
General; James D. "Buddy" Caldwell,
Louisiana Attorney General; Jim Hood,
Mississippi Attorney General; Gary
King, New Mexico Attorney General;
Richard Cordray, Ohio Attorney Gen-
eral.

Mr. LEAHY. It is interesting that fi-
nally we are getting to this nomina-
tion. What is troubling to me, as some-
one who has been here for 35 years, is

to see what is happening this year that is really unprecedented: having to overcome a Republican filibuster of a nomination that was voted out of committee 17 to 2. All but two Republicans voted for it. That was 4 months ago.

There are no questions about the qualifications of Tom Perez. He is a former special counsel to Senator Kennedy. He has been nominated to run the division where he previously served with distinction, spending 10 years as a trial attorney in the Criminal Section of the Civil Rights Division, rising to Deputy Chief of the section.

There is no question about the critical need for leadership in the Civil Rights Division, the division charged with enforcing our landmark civil rights laws and protecting all Americans from discrimination. Our delays in considering this nomination have hindered the work of restoring the division's independence and the tradition of vigorous civil rights enforcement, especially after the Bush administration compiled one of the worst civil rights records in modern American history and injected partisan politics into the division's hiring and law enforcement decisions.

We need real leadership to restore the traditional sense of purpose that has guided the Civil Rights Division, a division that has acted in a totally nonpartisan way to uphold the civil rights of all Americans no matter what their political background, as is the priority of Attorney General Holder.

It is a shame this filibuster has held up Mr. Perez for 4 months. The President designated Mr. Perez on March 13 and formally nominated him 2 weeks later. We held his confirmation hearing April 29, over 5 months ago. I thank Senator CARDIN, who chaired that hearing and did a very able job of it. And then after accommodating the request of the senior Republican and other Republicans of the Judiciary Committee, we did not move immediately to it; we held it over until after the Memorial Day recess so they could ask other questions. Mr. Perez's nomination was reported by the Judiciary Committee on June 4. Senator HATCH voted for him; Senator GRASSLEY voted for him; Senator KYL, the deputy Republican leader, voted for him; Senator GRAHAM and Senator CORNYN voted for him.

The ranking member, Senator SESSIONS, and Senator COBURN asked to meet the nominee before consideration by the Senate. That meeting took place almost immediately after the request. It reportedly went well. Unfortunately, despite these efforts, it has taken 4 months to schedule Senate consideration of this well-qualified nominee. That makes a mockery of the kind of way we should treat the Department of Justice, which is the Department of Justice of America for all Americans. It is not a partisan place, it is there for all of us.

In fact, if the Senate Republican minority applied the same standard to the consideration of President Obama's

nomination of Tom Perez as Democrats and Republicans used in considering President Bush's first nomination to serve the Civil Rights Division, Ralph Boyd, Mr. Perez would have been confirmed many months ago.

I remember the Boyd nomination well. I chaired the Judiciary Committee at the time he was confirmed. We held Mr. Boyd's hearing just a little over 3 weeks after his nomination. Compare that with the delays here. He was reported by the Judiciary Committee with every single Democrat voting for him. Did he have to wait 4 months after that? No. He was confirmed 1 day later by a voice vote in the Senate. No shenanigans. No partisanship. No posturing for narrow special interests. I want to be sure that was heard: no posturing for narrow special interests.

By comparison, it has now been 188 days since Mr. Perez was nominated to the same post, even longer since he was designated. It should not have taken more than twice as long to consider President Obama's first nomination to this post as it took for President Bush's.

Then President Bush had a second nomination to head the Civil Rights Division, Alex Acosta. We moved even more quickly. At that point, the Democrats were in the minority. We did not filibuster. We did not obstruct. We did not delay. We knew how important it was. We cooperated. We agreed to a hearing less than 4 weeks after he was nominated. He was reported from the Judiciary Committee by a unanimous vote. He was confirmed by a Senate voice vote. It took just 36 days. Republicans have dragged the process out on the Perez nomination to extend more than five times that long. Democrats didn't do that to President Bush. No shenanigans, no partisanship, no posturing for narrow special interests.

President Bush's third nomination to the civil rights division, Wan Kim, was also considered and confirmed much more quickly than Mr. Perez. He was confirmed in the Senate by a voice vote. There was no filibuster. There were no shenanigans. There was no partisanship. There was no posturing for special interests. Then Mr. Kim had to resign along with Attorney General Gonzales and the entire senior leadership of the Bush-Cheney Justice Department in the wake of the U.S. Attorney firing scandal and revelations of political hiring and decisionmaking that threatened the morale and independence of the Civil Rights Division and the Department.

Indeed, it was that scandal that prevented us from considering President Bush's fourth nomination to head the Civil Rights Division. Grace Chung Becker refused to answer many questions at her confirmation hearing about whether she was involved in politicized hiring and decision-making, repeatedly citing the then-ongoing internal investigation by the Department as a reason not to answer. In light of

Ms. Becker's repeated invocation of the investigation in response to questions, we had to await its conclusion before moving forward on her nomination. Unfortunately, the report from the Department's Inspector General and Office of Professional Responsibility was not completed until it was too late to consider Ms. Becker's nomination. There is no similar cause to delay the consideration of Mr. Perez's nomination. We should instead have treated his nomination as we did that of Mr. Boyd, Mr. Acosta, and Mr. Kim.

I say this because the filibuster of Mr. Perez's nomination is indicative of the double standard that Republican Senators seem intent to apply with a Democratic President. It is wrong. I am not saying that Republican Senators don't have the power under Senate rules to do it or that it is even unconstitutional. What I am saying is, it is not in the interest of the American people. It is bad judgment. It is misspent time. It is something we can ill afford. The Civil Rights Division, following the scandals of the last administration, needs to be restored to the level of prestige it held under both Republican and Democratic presidents in the past.

Ten months into President's Obama's first term, President Obama having won overwhelmingly, we find that 16 nominations reported by the Judiciary Committee, many of them unanimously, remain pending on the Senate's executive calendar. Seven of them were before the last recess, including the nomination of Mr. Perez. Five of these nominations are for appointments to be assistant attorneys general at the Department of Justice. The Department of Justice, which during the Gonzales days reached probably its low point, certainly since I have been old enough to practice law, we saw was demoralized. We saw the scandals. Now we are trying to build it back up.

So what has happened? Because of Republican foot dragging and shenanigans and appealing to special interests, we find five out of a total of 11 divisions at the Department do not have a confirmed and appointed head. The Office of Legal Counsel, as well as the Civil Rights Division, the Tax Division, the Office of Legal Policy, and the Environment and Natural Resources Division remain without Senate-confirmed Presidential appointees to guide them.

President Obama won the election. President Obama inherited a Justice Department that had been wracked by scandal. He ought to be commended for trying to put it back. But look what has happened with some of these delays. Even his attorney general was delayed for weeks and weeks. And when they finally allowed him to have a vote, he got a greater vote than any of the last four attorneys general. Is this delay for the sake of delay? Is there such resentment that President Obama won the election? Then talk to those who voted, but don't hold up the Department of Justice. The Department

is there for Republicans and Democrats and Independents, for all of us. We have to do a better job of confirming the leadership team of the Justice Department to ensure that the Nation's top law enforcement agency is fully equipped to do its job. I hope that all Senators who delayed law enforcement in this country will be reminded of that when they go home and speak about being in favor of law enforcement.

I was privileged to spend 8 years of my public life in law enforcement. I still breathe deeply the sense of being in law enforcement. Every one of us favors good law enforcement. But you are damaging law enforcement by holding up these people. I hope now, despite this unnecessary filibuster, Republicans and Democrats who joined together in the past to help law enforcement will join together to confirm this well-qualified nominee.

Mr. Perez has been nominated to lead the Civil Rights Division, which for 50 years has stood at the forefront of America's march toward equality. It has a long tradition of independent law enforcement that has helped transform the legal landscape of our country and brought us closer to the ideal of a "more perfect union." A strong and independent Civil Rights Division is crucial to the enforcement of our precious civil rights laws.

During his confirmation hearing, Mr. Perez made clear his commitment that the Justice Department would enforce the law. In the arena of civil rights, living up to those assurances is particularly important, because the nation's civil rights laws ensure that the system works for all Americans—no matter the color of their skin, their gender, their religious affiliation or their sexual orientation. The civil rights laws are the foundation of our Nation's aspiration toward a just and fair society.

That is why so many people were concerned during the last administration when we witnessed an abandonment of the Division's finest traditions of independence and a rollback of the priorities upon which it was founded. The report released nine months ago by the Justice Department's Inspector General and Office of Professional Responsibility confirmed some of our worst fears about the last administration's political corruption of the Civil Rights Division.

The report confirmed our oversight findings that political appointees in the Division marginalized and forced out career lawyers because of ideology, and injected a political litmus test into the Division's hiring process for career positions. It should come as no surprise that the result and the intent of this political makeover of the Civil Rights Division led to a dismal civil rights enforcement record. This report was just one of the final chapters in the regrettable legacy of damage that the Bush administration inflicted on the Justice Department, our civil rights, and our

fundamental values. It also reinforced the need for new leadership.

Given that Tom Perez has a distinguished record of public service and a long career advancing civil rights, I have full confidence that he is the right person to restore the Civil Rights Division to its finest traditions of independent law enforcement. He is the first person nominated to head the Civil Rights Division in over 35 years who has experience as a career attorney in the Division.

In addition, he has worked on civil rights at various levels of Federal, state and local government, serving as Special Counsel to Senator Kennedy, Deputy Assistant Attorney General for Civil Rights, Director of the Office of Civil Rights at the Department of Health and Human Services, and currently as Maryland's Secretary of Labor, Licensing, and Regulations. His impressive credentials also include graduating from Brown University, Harvard Law School, and the Kennedy School of Government. By confirming this highly qualified nominee today, we will take a significant step forward.

Numerous major civil rights and law enforcement organizations have written to endorse Mr. Perez's nomination, including the Leadership Conference for Civil Rights, the National Women's Law Center, and the chief law enforcement officers of the States of Arizona, Iowa, Massachusetts, Nebraska, Utah, Washington, and Vermont. Those chief law enforcement officers wrote: "Secretary Perez's qualifications and credentials are exceptional" and "[h]e is a nationally recognized civil rights lawyer whose breadth and depth of experience make him an ideal choice to lead the Civil Rights Division." The Leadership Conference of Civil Rights wrote: "It will take strong and reliable leadership combined with extensive experience at the Division to restore the Division to its previous prominence in the enforcement of civil rights laws. Tom Perez is the right person to take on that challenge."

Mr. Perez's nomination has also earned support from both sides of the aisle. Former Republican staff members of the Senate Judiciary Committee have described him as "a public official of the highest integrity . . . whom the Committee and the nation can be proud." These Republican staffers who worked with Mr. Perez describe him as a person "more interested in 'moving the ball forward' for the common good than in scoring political points at the expense of his adversaries." Congressman ELIJAH CUMMINGS of Maryland, who worked with the nominee when he served as Maryland's Secretary of Labor, Licensing, and Regulation, wrote that Tom Perez is committed to "serving the public good." He also wrote "it is hard to imagine how President Obama and Attorney General Holder could have made a better choice." Senator MIKULSKI of Maryland said, "I am confident Tom Perez will get the Civil Rights Division

back on track" and he "will restore our reputation . . . of tolerance and equal rights and protection for all."

Mr. Perez intends to make restoration of the Civil Rights Division and its mission a priority. He has pledged to follow in the footsteps of his mentor, his former boss, Senator Kennedy, and rekindle the bipartisanship that has characterized the fight for civil rights throughout our Nation's history by returning the division to its law enforcement roots. Let us not go back to an era in the Senate when we were opposed to civil rights enforcement. Let's support this well-qualified nominee. Let's go back to enforcing the civil rights laws.

Does the Senator from Vermont have any time remaining?

The PRESIDING OFFICER. Less than 1 minute.

Mr. LEAHY. I yield the floor.

Ms. MIKULSKI. Madam President, I am so proud the Senate will confirm Maryland's own Thomas Perez to be Assistant Attorney General for the Civil Rights Division at the Department of Justice. I commend the Senate for its action. The Civil Rights Division has gone far too long without leadership that achieves its goals.

Secretary Perez is well suited for this crucial position. As Maryland's secretary of labor, Mr. Perez inherited a department that had been neglected and minimized. He quickly took control by reenergizing and reinvigorating the Department and I have no doubt that he will do the same for the Civil Rights Division.

The Civil Rights Division was created in 1957 and was a key force in desegregation. The division was charged with protecting minority rights including the right to vote. However, a division that was once a source of pride at the Department of Justice was decimated and caught up in political hiring under the previous administration. Civil rights enforcement was put on the back bench and productivity plummeted. Now more than ever the Department of Justice needs someone to restore morale to hardworking career employees and public confidence in Department. Thomas Perez is the right man for the job.

Thomas Perez meets my criteria for nominees: competence, commitment to the mission of the agency, and integrity. His competence to serve in this position is unquestionable. Mr. Perez graduated cum laude from Harvard Law School, and has amassed extensive experience in civil rights laws as a chief of the Civil Rights Division and Director of Civil Rights Office for Health and Human Services. His commitment to the agency was demonstrated by his work as a civil rights attorney at the Department, where he secured convictions in a high profile race-motivated hate crime in Lubbock, TX, involving defendants who went on a killing spree directed at African Americans. Lastly, his integrity stems from his upbringing in a hard-working

immigrant family. It was demonstrated as he prosecuted public officials for corruption and violators of our Nation's laws.

I am confident that Mr. Perez will get the Civil Rights Division back on track with enforcing this country's civil rights laws. I have no doubt that he will combat discrimination, protect minorities, and hold violators accountable. Today we restored our reputation of embodying this country's values of tolerance and equal rights and protection for all. I thank my colleagues for their strong support of his confirmation.

The PRESIDING OFFICER. Who yields time?

If no one yields time, time will be charged equally to both sides.

Mr. LEAHY. If I have any remaining time, I yield it back.

The PRESIDING OFFICER. The time of the Senator from Vermont is yielded back.

Mr. LEAHY. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

TANKER PRICING

Mr. SESSIONS. Madam President, I would like to discuss a matter that is unrelated to the pending nomination. I have been concerned about the competition for the Air Force's No. 1 acquisition priority, the KC-X replacement aerial refueling tanker. This competition was opened for a second time on September 25 with the release of the RFP to the two bidders. We know this has been a troubled acquisition program. People actually went to jail early on in the process for attempting to create a sole source lease agreement. That breach of the public trust caused the Senate and Congress to mandate that a full and open competition be held to replace the Air Force's aging tankers. Full and open competition language was included in the 2005 Defense Authorization Act explicitly to prevent one competitor from having an unfair advantage over the other.

A troubling fact has come to my attention regarding the second round of tanker competition. The Air Force released Northrop Grumman's proposed pricing for the KC-X tanker to Boeing, the other competitor, at the end of the first competition, a competition that resulted in Northrop Grumman being declared the winner. I am told that such a release of pricing data was within acquisition regulations and that it is customary that the pricing data for the winning proposal, in this instance the Northrop Grumman proposal, be shared with the other competitors. The Department of Defense has stated that the Air Force did disclose the winner's pricing information to the losing com-

petitor after last year's source selection. The Department of Defense further stated:

... this disclosure was in accordance with regulation and more importantly that it created no competitive disadvantage because the data in question are inaccurate, outdated, and not germane to this source selection.

That statement might sound reasonable if it were not your pricing data that had been given to your competitor, but it certainly flies in the face of even the simplest definition of fairness. Let's be clear. This round of the KC-X competition is based on the same capabilities development document, the CDD, as the last, and the winner of the last competition is going to be bidding using the same aircraft they won with last time. How is their pricing data not germane to this round of competition? If it is not relevant, why won't the Department give both competitors the same insight to each team's pricing from the last competition?

Earlier this year we passed the Weapons System Acquisition Reform Act of 2009 and dedicated an entire section of that act to the need for fair competition. A basic tenet of effective competition is transparency to all bidders. In both versions of the 2010 authorization bills currently pending in this session, there is language that directs a fair and open competition, as has been true in previous years as we considered this acquisition project. It is a big one. It is important. It is the Air Force's No. 1 acquisition priority.

I stand behind the Air Force in their recognition of the need to reestablish their credibility. It had been lost somewhat in the improprieties that turned up several years ago. But I am disheartened by the fact that they don't seem to understand this issue of not sharing the same pricing data between the two bidders undermines their credibility and fairness. The Air Force certainly can't take the Northrop team's pricing data back. It has already been given to Boeing. It is too late for that. There is a simple fix to this problem. Both competitors should have the pricing data from the last competition. That is the only practical way to level the playing field. It is the right way to go forward with replacing an aging tanker fleet, some of which are over 50 years old. By the time the new tankers are in place, some existing tankers will be 80 years old. Releasing this data is what a fair competition requires and what the Air Force should do.

I understand that the bill managers have selected a certain number of amendments to consider and this amendment will not be selected for a vote. I have some amendments that have been selected. I understand the managers' constraints, but I believe the Air Force should consider this simple step toward fairness and should be committed to making sure one side does not have an unfair advantage over the other.

I have talked with Senators COBURN and VITTER who have an interest in

this nomination. They have agreed to vitiate the cloture vote and proceed to an up-or-down vote on the nominee.

Mr. LEAHY. Madam President, I ask unanimous consent that the cloture vote on this matter be vitiated and that it be in order to request the yeas and nays for a vote up or down at 12:15.

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

Mr. LEAHY. Madam President, I ask for the yeas and nays on the nomination.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The question is, Will the Senate advise and consent to the nomination of Thomas E. Perez, of Maryland, to be an Assistant Attorney General?

The clerk will call the roll.

The bill clerk called the roll.

Mr. DURBIN. I announce that the Senator from West Virginia (Mr. BYRD), the Senator from Connecticut (Mr. LIEBERMAN), the Senator from Vermont (Mr. SANDERS), the Senator from Pennsylvania (Mr. SPECTER), and the Senator from Colorado (Mr. UDALL) are necessarily absent.

Mr. KYL. The following Senator is necessarily absent: the Senator from North Carolina (Mr. BURR).

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

The result was announced—yeas 72, nays 22, as follows:

[Rollcall Vote No. 306 Ex.]

YEAS—72

Akaka	Franken	Lugar
Alexander	Gillibrand	McCaskill
Baucus	Graham	Menendez
Bayh	Grassley	Merkley
Begich	Gregg	Mikulski
Bennet	Hagan	Murkowski
Bingaman	Harkin	Murray
Bond	Hatch	Nelson (NE)
Boxer	Hutchison	Nelson (FL)
Brown	Inouye	Pryor
Burris	Johanns	Reed
Cantwell	Johnson	Reid
Cardin	Kaufman	Rockefeller
Carper	Kerry	Schumer
Casey	Kirk	Shaheen
Collins	Klobuchar	Snowe
Conrad	Kohl	Stabenow
Corker	Kyl	Tester
Cornyn	Landrieu	Udall (NM)
Dodd	Lautenberg	Voinovich
Dorgan	LeMieux	Warner
Durbin	Leahy	Webb
Feingold	Levin	Whitehouse
Feinstein	Lincoln	Wyden

NAYS—22

Barrasso	DeMint	Roberts
Bennett	Ensign	Sessions
Brownback	Enzi	Shelby
Bunning	Inhofe	Thune
Chambliss	Isakson	Vitter
Coburn	McCain	Wicker
Cochran	McConnell	
Crapo	Risch	

NOT VOTING—6

Burr	Lieberman	Specter
Byrd	Sanders	Udall (CO)

The nomination was confirmed.

The PRESIDING OFFICER. Under the previous order, the motion to reconsider is considered made and laid upon the table.

Under the previous order, the President shall be immediately notified of the Senate's action.

LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will now resume legislative session.

RECESS

The PRESIDING OFFICER. Under the previous order, the Senate stands in recess until 2:15 p.m.

Thereupon, the Senate, at 12:39 p.m., recessed until 2:15 p.m. and reassembled when called to order by the Presiding Officer (Mr. CARPER).

MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to a period of morning business until 3:15 p.m., with Senators permitted to speak therein for up to 10 minutes each, with the time equally divided and controlled between the two leaders or their designees.

The Senator from Tennessee is recognized.

Mr. ALEXANDER. Mr. President, would the Chair let me know when 9 minutes has expired?

The PRESIDING OFFICER. The Chair is happy to do that.

HEALTH CARE

Mr. ALEXANDER. Mr. President, a lot of what we say in Washington, DC, doesn't make its way through to the people out across the country who hire us. It is called, in different words, Washington-speak or gobbledegook by some people. Sometimes we have a hard time understanding ourselves. But one thing has gotten through to the American people: the idea that we should, No. 1, read the bills that come before us and, No. 2, we should know what they cost before we vote on them.

I think the reason for that is because, over the last several months, we have suddenly seen a whole series of Washington takeovers and 1,000-page bills and the people in this country are getting worried about a runaway Federal Government, thinking we may be overreaching here. We had a 1,200-page bill in the House of Representatives on energy and global warming. It was available for 15 hours before the vote. We had a stimulus bill—that was \$800 billion, not counting interest—that was 1,100 pages and was available online for 13 hours. We had a \$700 billion bailout, called the financial sector rescue package, which was available for 29 hours. The other day in the Finance Committee, Republicans said let's put the bill online for 72 hours. That was voted down by the Democratic members of the committee.

What we Republicans would like to say is this: We want health care reform. We have our ideas and suggestions that we have made. We think we should focus on reducing costs, that we should go step by step in that direction, starting, for example, with allowing all small businesses to pool to-

gether so they can offer health insurance to their employees at a reasonable cost. The estimates are that millions more Americans would be able to get health insurance from small businesses.

We have other suggestions for reducing costs. But the first thing we would say is, as this bill comes to the Finance Committee—and I see the Senator from Delaware and the Senator from Texas, who are both members of that Finance Committee—we want to be able to read the bill and know what it costs. Over the next 3 weeks, we hope, on the Republican side, to help the American people understand what this health care bill means for them. You hear lots of competing claims about it—it does this or that, and we are scaring you or they are scaring you. Let's take it one by one.

If we have time to read the bill, and we know what it costs—the President said this bill cannot have a deficit. If we don't know what it costs, how can we do what the President wants us to do? I hope we take a sufficient amount of time. The bill is in concept form now, and then the majority leader will take it into his office and merge the Finance Committee bill with the bill that we on the HELP Committee worked on in July, and out of that will come another bill. We will need the CBO to look that bill over, which I am sure will be well over 1,000 pages. It will take a couple weeks to see what it costs. Then we can work on it.

Why is it so important that we actually have the text of the bill and know what it costs? Because the bill has \$½ trillion in Medicare cuts in it. On the other side, they say: Don't say that; you are scaring people. Well, it either has it or not. We say it has it. The President said there will be Medicare savings. The truth is, it is worse than that. What it appears to be is we are going to cut Grandma's Medicare and spend it on somebody else. There may be savings in Grandma's Medicare, but, if anything, we ought to spend any savings on making Medicare solvent because the trustees of Medicare have told us it will go broke in 2015 to 2017. So the people have a right to know will there be cuts to hospitals, hospices, home health, to Medicare Advantage. One-fourth of seniors on Medicare have Medicare Advantage, and it is going to be cut.

We need ample time to say: What do those cuts in Medicare mean to you? Will the bill raise your taxes? We say it will; some say it will not. But from our reading of the bill, it looks like there will be at least a \$1,500 tax per family, if you don't buy certain government-approved insurance. There is the employer mandate requiring you to provide insurance. That is a tax. There are \$838 billion of new taxes on insurance companies, medical device companies, which will be passed on to consumers. That is a tax.

The Presiding Officer was a Governor, as I was. He was chairman of the

National Governors, and many Governors are very upset because we are expanding Medicaid in their States and sending a large part of the bill to them. So that could be more State taxes.

Now we hear from the Governors. There was an article in the Washington Post yesterday, and I ask unanimous consent that it be printed in the RECORD following my remarks.

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

(See exhibit 1.)

Mr. ALEXANDER. The article says: "States Resist Medicaid Growth. Governors Fear For Their Budgets."

The Tennessee Governor—a Democrat—said:

I can't think of a worse time for this bill to be coming. I'd love to see it happen. But nobody's going to put their state into bankruptcy or their education system in the tank for it.

The Governor of South Dakota said:

That's a heck of an increase, and I don't know how I'm going to pay for it.

The Governor from Ohio said:

I have indicated that I think the States, with our financial challenges right now, are not in a position to accept additional Medicaid responsibilities. Governor Schwarzenegger of California said it will add up to \$8 billion to California, and California is nearly going broke anyway. Senator FEINSTEIN said she cannot support a bill that puts that kind of additional tax on States.

Basically, it is the old trick of we in Washington saying here is a great idea, we will pass it, and send part of the bill to the States. What will the States have to do? They will have to cut the money that goes to the University of Texas or Delaware or Tennessee. They have to raise taxes, or they cannot cut benefits because cutting benefits is against the law.

So how much will these Medicaid mandates cause taxes to be raised in your State?

There are other questions we would like to ask. Will this bill raise your insurance premiums? The whole point of this exercise, we think—and a lot of the American people think—is we want to reduce costs—costs to you when you buy your health insurance and costs to your government. Your Federal Government is going broke if we don't do something about rising health care costs, just as you might.

You would think this bill would reduce your costs—to you for premiums and to you for your government. But that is not what the CBO says. It says that, in some cases, premiums for exchanged plans would include the effect of these new taxes and the premiums would increase. Then there will be more government-approved insurance plans, which may turn out to be more expensive for you to buy. In other words, you would not be able to buy the plan you now have. You will have to buy a new government-approved plan that will cost more.

There will be higher premiums for young Americans under this bill. Almost everybody thinks that. So we

need to have a full discussion over the next 2, 3 or 4 weeks. Is this going to raise your health care premiums? If so, why are we doing that? Then, is it going to raise the Federal debt? Well, everybody is saying no, no, no, this will be deficit neutral. The President says: Don't send me a bill without it. Except this bill, as we understand it, doesn't include what we elegantly call the doc fix. Every year, we have to approve, or overturn, provisions in the law for that.

The PRESIDING OFFICER. The Senator has used 9 minutes.

Mr. ALEXANDER. I thank the Chair. Those are provisions that set the payment rates for physicians. We always do that. We know we are going to do it. We do it every year. Yet this bill assumes we are not going to do that. If we do include the doc fix, that adds \$285 billion to the debt.

We are going to be asking these questions. Please give us the text so we can read the bill. We are going to ask the CBO: Exactly what does it cost? Then we will be coming to the floor and going to town meetings at home and we are talking to the American people about how this affects them. Does it cut your Medicare? If so, how? Does it raise your taxes? If so, how? Will it bankrupt your State or hurt education in your State? If so, how? Does it increase or reduce your health care premiums or add to the Federal debt of your government?

These are the questions we need answers to, and we are looking forward to the debate; and then we are looking forward to passing health care reform that, step by step, begins to reduce the cost of health care to you and your government.

I yield the floor.

EXHIBIT 1

[From the Washington Post, Oct. 5, 2009]

STATES RESIST MEDICAID GROWTH

(By Shailagh Murray)

The nation's governors are emerging as a formidable lobbying force as health-care reform moves through Congress and states overburdened by the recession brace for the daunting prospect of providing coverage to millions of low-income residents.

The legislation the Senate Finance Committee is expected to approve this week calls for the biggest expansion of Medicaid since its creation in 1965. Under the Senate bill and a similar House proposal, a patchwork state-federal insurance program targeted mainly at children, pregnant women and disabled people would effectively become a Medicare for the poor, a health-care safety net for all people with an annual income below \$14,404.

Whether Medicaid can absorb a huge influx of beneficiaries is a matter of grave concern to many governors, who have cut low-income health benefits—along with school funding, prison construction, state jobs and just about everything else—to cope with the most severe economic downturn in decades.

"I can't think of a worse time for this bill to be coming," said Tennessee Gov. Phil Bredesen (D), a member of the National Governors Association's health-care task force. "I'd love to see it happen. But nobody's going to put their state into bankruptcy or their education system in the tank for it."

These fears are resonating with members of Congress and have already yielded some important legislative changes, including alterations to the Senate Finance bill, which includes billions of dollars in additional funding, added after governors raised a fury about the original, lower sum. But House and Senate negotiators are reluctant to make further concessions, and in recent days, House Democrats have debated whether to trim Medicaid funding in their bill to make room for other priorities.

Yet lawmakers are wary about imposing a huge new burden on an imperfect program that serves one of the most challenging segments of the population, through a fragmented network of state-run systems.

Among the 11 million people the nonpartisan Congressional Budget Office estimates will sign up for Medicaid under the new rules, many are single adults and parents who have gone for years without health coverage. Many of these individuals also live in communities that lack the services to treat them.

"States are already at a breaking point, and so they should be thankful that this bill is only going to cost them an additional \$30 billion," Sen. Charles E. Grassley (Iowa), the ranking Republican on the Finance Committee, told colleagues during the panel's two-week-long debate on reform. But Grassley added: "We are deluding ourselves, though, if we think that we are going to do anything in this bill to make Medicaid a better program for the people it serves."

The response from Democratic governors to the new burdens that may be imposed on them has ranged from enthusiastic to restrained. On Thursday, the Democratic Governors Association delivered a letter to House and Senate leaders signed by 22 of its members. It was silent on Medicaid but lauded the broader reform effort as essential. "We recognize that health reform is a shared responsibility and everyone, including state governments, needs to partner to reform our broken health care system," the letter noted.

Yet congressional Democrats are sufficiently alarmed about the potential impact that they already are seeking special protections for their states. Even Senate Majority Leader Harry M. Reid cut a deal with Senate Finance Committee Chairman Max Baucus (Mont.) to ensure that the federal government would pay the full cost of expanding Medicaid in Reid's state, Nevada.

Reid, who faces a potentially difficult 2010 reelection bid, responded to a Republican outcry over his stealth move by pointing to Nevada's crippling foreclosure crisis. "I make no apologies, none, for helping people in my state and our nation who are hurting the most," Reid said on the Senate floor.

Among the most vocal opponents of Medicaid expansion are Republican governors from Southern and rural Western states that offer minimal coverage under current law and are less equipped to handle an influx of new beneficiaries, compared with more urban states with better-established social-services infrastructures. The list includes Mississippi, governed by Haley Barbour, chairman of the Republican Governors Association. Barbour denounced the proposed Medicaid expansion at a news conference last month as a "huge unfunded mandate" likely to result in state tax increases.

The wake-up call for the nonpartisan National Governors Association came early in the summer, when Baucus and Grassley announced that they were considering only a temporary increase in federal funding to pay for new Medicaid enrollees. NGA leaders mobilized through their health-care task force, and after a round of conference calls with committee negotiators and bilateral talks

between individual governors and senators, the temporary increase was made permanent.

Governors still worry that the boost is not enough to fully close the funding gap. Recession victims already are flocking to Medicaid, and enrollment is expected to rise through fiscal 2010, according to the Kaiser Family Foundation's Commission on Medicaid and the Uninsured. The pace of increase is expected to ease after fiscal 2010, leaving states with a short window before an anticipated onslaught in 2014, when the proposed Medicaid expansion would take effect.

South Dakota Gov. Mike Rounds (R) saw Medicaid enrollment in his state climb to 104,000 residents this year, costing the state \$265 million out of a budget of \$1.2 billion. But he expects a \$50 million increase next year, and, even taking into account federal aid from the economic stimulus bill, South Dakota faces a \$100 million shortfall. "That's a heck of an increase, and I don't know how I'm going to pay for it," Rounds said.

Bredesen said Tennessee could face \$1 billion in extra Medicaid costs for the first five years of the expansion. "I have no idea how we're going to afford it," he said.

Nor can governors say for certain how many people will show up to claim the new benefits. Because low-income people are harder to track—they tend to move more frequently, and they often don't file tax returns—state officials don't know precisely how many will be eligible. Rounds estimates an enrollment increase of about 75,000 people but concedes that the number could be much higher.

Another mystery is how many people who qualify for Medicaid under current rules—a sizable portion of the uninsured population—will decide to finally sign up. This is the "woodwork effect" that unnerves state officials around the country because it could lead to much higher costs.

"That's part of the problem we're having, is getting hard numbers," Rounds said. "We just don't know."

In South Dakota and many other states, communities lack doctors and other healthcare providers who are willing to treat Medicaid patients, either because the providers aren't available or because Medicaid payment rates are so low. The House reform bill would increase Medicaid payment rates to the same level as Medicare rates, at a 10-year cost of \$80 billion. In some states, Medicaid rates are as low as 40 percent of Medicare rates. But the finance panel rejected a Grassley amendment that would have increased provider rates in the Senate bill.

Despite Medicaid's drawbacks, including rigid rules and a complex bureaucracy, many health-care experts still view it as the most practical way to insure the poorest Americans. Low-income adults account for about half of the uninsured population, and in states that provide minimum Medicaid coverage, few parents and no childless adults are covered unless they meet other eligibility criteria.

"If you're trying to expand coverage, at least Medicaid is already up and operational in every state," said Diane Rowland, executive director of the Kaiser Commission on Medicaid and the Uninsured. "You're not creating something new with start-up glitches. For any of its flaws, it has been operating, it is paying bills, it is contracting with managed care, it has an eligibility system already in place."

As the reform debate unfolds on the House and Senate floors, health-care negotiators are prepared for a flood of pleadings like the one Reid made that could add up to many billions, forcing reductions to other portions of the bill. California Gov. Arnold Schwarzenegger (R), for one, estimated that

the Medicaid expansion could cost his state \$8 billion a year. Sen. Dianne Feinstein (D-Calif.) underscored those concerns with her own pledge: "I could not support a bill that pushes additional costs on California state government or its counties."

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mr. CORNYN. Mr. President, I join my colleague from Tennessee in discussing health care, which, as the Presiding Officer knows, has been the subject for several weeks now in the Finance Committee and across the entire country for the last few months.

Currently, we are waiting for the CBO to come back to the Finance Committee and tell us what the preliminary cost estimate is of the Finance Committee bill, as voted with amendments that were passed in the Finance Committee. Soon, if we can believe the reports, the majority leader will bring to the floor a so-called merged bill from the two Senate committees—the HELP Committee and the Finance Committee—and then we will be asked to offer amendments and vote on that bill.

While we are waiting for the process to unfold, I think it is very important to carefully ask the questions that the American people—including my constituents in Texas—are asking me, questions I believe Senators should ask themselves as we debate health care reform on the Senate floor.

The first question I would like to propose is: Will we have a transparent debate? The American people want transparency. I cannot tell you how many of them have contacted me from my State and elsewhere and have said: We want to read the bill language. Amazingly enough, many have cited back to me pages—references either from the House bills or the HELP Committee bill or otherwise—and said: What does this mean? I have concerns about that.

The second question is: Will Congress actually listen to the concerns of our constituents once they learn more about what is in these bills? In other words, ultimately, the question is: Will we know what is in the bill before we are required to vote on it? Will we know how much it is going to cost before we vote on it, both in committee and on the floor of the Senate?

If you will remember, way back in August of 2008—that seems like a long time ago, but it is almost yesterday—President Obama pledged that our debates on health care reform would be transparent. I applauded him for that at that time. He said negotiations should take place on C-SPAN, so anybody and everybody who cared about it could see it. I remember, on January 20 of this year, sitting up there near the dais when our President spoke, and he said things I agreed with, such as: "We need greater transparency in government." He said: "Transparency promotes accountability and it promotes public confidence in what we do here."

Well, the converse is also true; secrecy breeds suspicion and ultimately

promotes cynicism about what we do here. That is why this is such an important issue. Unfortunately, those Americans who have been counting on a transparent process in Washington have been disappointed so far. We have seen special deals negotiated by the White House with lobbyists which have not been disclosed to the American people, some which we have learned about and some which we may not yet know about. One is the deal with the pharmaceutical industry—holding their exposure to \$80 billion under this legislation. That deal was reinforced last week by a vote in the Finance Committee.

I wasn't a party to that deal. I am sure the Presiding Officer was not. I wonder how many other deals have been cut between the White House and various interest groups that we don't know about. We also learned about a deal cut with some hospitals—some but not all. A CBO score on an amendment last week had to be redone because it was \$11 billion off because the CBO, the nonpartisan office charged with telling us how much this bill will cost, didn't know about this hold harmless agreement with the hospital association.

We need to know of these deals because they will not necessarily be reflected in the bill language, and only the White House, presumably, and the special interest groups that cut these deals know about them. But I think it is important the American people know about them so they can evaluate whether we are appropriately doing our job.

I have heard it time and time again, particularly since the passage of the stimulus bill that we got roughly at 11 o'clock on a Thursday night and were required to vote on in less than 24 hours—my constituents are saying: Is it asking too much to have you read the bill before you vote on it? I voted no on that bill for a lot of reasons, but I didn't have the time, nor I suspect did many Members of Congress have the time, to read it before we were required to vote on it.

We don't set the voting schedule; the majority leader does. I think that is another reason they want us to slow down. Let's find out what is in the bill. Let's let the American people read what is in the bill. Tell us what it is going to cost, and let's have a good, old-fashioned debate about what is in the best interests of the American people.

The third special deal that was disclosed had to do with Medicaid. You remember the majority leader from Nevada said: The unfunded mandate for Medicaid expansion is too much for my State to absorb. Lo and behold, a new deal was cut with new language that would give four States a better deal than they would have had in the original proposal by the chairman of the Finance Committee, Senator BAUCUS. One of those four States, lo and behold, happens to be the State represented by our distinguished majority leader. I

think these examples reveal why transparency is so important.

As the distinguished Senator from Tennessee pointed out, we are going to have this mysterious merger of the Finance Committee proposals with the Health, Education, Labor, and Pensions Committee bill behind closed doors, presumably—I heard reports it is occurring now, maybe even as we speak, in the conference room of the majority leader without any of us being present. I think it is a perilous, indeed, a dangerous way for us to do business.

As the distinguished Presiding Officer knows, the first amendment offered by our side of the aisle last week in the Finance Committee was offered by the Senator from Kentucky, Mr. BUNNING. His amendment would have required a 72-hour waiting period before we would vote on the Finance Committee bill. During those 72 hours, we would, hopefully, have had actual legislative text not just conceptual language available to us and available to the American people so they could read it. We would also insist, under his amendment, on a score; that is, a cost of the Congressional Budget Office telling us how much Medicare was going to be cut, how much taxes would be raised, and how the bill would be paid for. That seemed like an eminently reasonable amendment to me. But, unfortunately, a majority did not carry the day in the committee, and it failed.

I hope we have another chance to come back to that issue, perhaps even as one of the first amendments as we take up this bill on the floor because I think it is incredibly important to public confidence, to accountability, to try to do something about the cynicism that has crept into the public's perception of what we are doing. That is reflected in 16 percent of respondents in a recent Rasmussen poll saying they rate Congress as either good or excellent—16 percent. We need to do better than that. We need to restore confidence in what we are doing, and I think transparency will help; otherwise, what are we left with? We are left with people wondering whether there is some reason we don't want the public to read the bill. Maybe there is a reason that they don't think the public should read the language because maybe they don't intend to read the language before they vote on it.

Some have said the language is just simply too complicated; that an average person cannot understand it if they read it, and that even some Senators would not be able to understand it if they read it before they voted on it.

I ask us all to take a deep breath and one step back and think about the consequences. If some staffer is the one writing the language, and Members of Congress, members of committees, Members of the Senate do not read it and it perhaps is not written in understandable language so we know what the impact will be, how does that promote public confidence? It is something that ought to give us pause, and

we ought to reconsider as we reflect on what the message sends.

Mr. President, I ask unanimous consent for 2 additional minutes.

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

Mr. CORNYN. Mr. President, I ask, in conclusion, for my colleagues to think about what we are doing. One-sixth of the economy is going to be affected by our decision on these health care proposals. What we do in these bills will literally affect the life of every man, woman, and child in the United States of America—all 300 million of us. I don't think it is too much to ask that we slow this down, that we get the text, the actual bill language, that we know how much it is going to cost, and we post it online so the American people can read it and give us their reaction.

We are called representatives for a reason. We represent constituents. I am proud to represent 24 million Texans. I guarantee, they want to know what is in this bill and how it is going to impact them and their families. It is very important that we answer this question in the affirmative.

That question again is: Will this be a transparent debate? That is the first question I have but not the last that I will be appearing back on the Senate floor in the coming days to ask. These are the kinds of questions that deserve a candid answer. I hope, in the interest of bipartisan good faith, we will somehow find a way to come together and help make this a more transparent process.

Mr. President, I ask unanimous consent that the quorum call be reflected equally, taken from both times on each side.

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant bill clerk proceeded to call the roll.

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

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

Mr. THUNE. Mr. President, a number of my colleagues have been down on the Senate floor today talking about probably the biggest issue the Congress will deal with this year, and arguably for many years, either in the past or in the future, and that is the issue of health care reform. We know that issue is now staring us squarely in the face. The various committees that have jurisdiction over that issue in the Congress have acted: three in the House, now two in the Senate. It is expected the Senate Finance Committee will produce a bill sometime later this week.

It is a critical debate for the Senate, for the American people, because it does represent literally one-sixth of the

American economy. One-sixth of our entire GDP today consists of spending on health care—government health care, privately delivered health care, but health care nonetheless.

The question before the Senate in the next week or two when this eventually reaches the floor is, what are we going to do to try to address the fundamental problem I think most people perceive with our health care system today, which is it costs too much? Arguably there are lots of Americans who do not have access to health insurance. All of us want to see that issue addressed and that those Americans who currently do not have health insurance have a way of being able to access that health care coverage.

Many today use emergency services. It is not that people are going without health care, but they do not have coverage. We need the people in this country to have the assurance and the confidence they are going to have some sort of insurance that will protect them against those types of life-threatening illnesses, just the day-to-day illnesses that afflict people across this country. Yet I think the big issue for most Americans is the issue of cost.

As I said before, when you look at double-digit increases for small businesses, for families, that really does affect all Americans in one form or another. It is a very personal issue. Health care is personal to people for obvious reasons, but it is an issue that affects their pocketbooks in a real, tangible way, and that is why I think there is so much attention and concern focused on the direction in which Congress intends to proceed.

One of the issues that bears heavily upon that debate is the whole fiscal situation in which we find ourselves. If we were having this debate at another time, perhaps the circumstances being somewhat different, you might come to different conclusions. But one thing we all have to keep in mind as we look at how do we address this issue of health care in this country is doing it in a way that is fiscally responsible. The reason for that is we see deficits, huge deficits as far as the eye can see. For the fiscal year we just concluded on September 30, \$1.6 trillion annual deficit; next year it is expected to be \$1.5 trillion—trillions and trillions of new spending each and every year.

This last fiscal year I mentioned, the deficit being \$1.6 trillion, that literally represents 43 cents out of every dollar the Federal Government spent. Forty-three cents out of every single dollar the Federal Government spent this last year was borrowed. It is all debt.

The PRESIDING OFFICER. The time on the Republican side has expired.

Mr. THUNE. I ask unanimous consent to proceed until such time as the other side comes and claims their time.

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

Mr. THUNE. The point I want to make simply is this: To put that into

perspective for an average American family, if you are an average American family and your annual income is \$62,000—from all your hard work and labor over the course of the year you generate \$62,000 for your household—that would be the equivalent of spending \$108,000. What the Federal Government is doing by borrowing 43 cents out of every dollar it spends is the equivalent to a family, a household in this country making \$62,000, of spending \$108,000. What family in America can do that? What small business in America can do that, can continue to borrow like that? They cannot. It is fundamental; you cannot do that.

The Federal Government does it. We continue to borrow from the Chinese, and we say we will pay the bills at a later date. But one thing most Americans understand is, No. 1, you can't spend money you don't have; and, No. 2, when you borrow money, it does have to be paid back. What we are looking at right now is deficits and debt mounting to the point that 10 years from today the amount that every household will owe in this country is \$188,000.

How would you like to be a young couple just getting married, you just exchanged your marriage vows, and knowing when you start out your life as a family you are going to get a wedding gift from the Federal Government to the tune of a \$188,000 IOU? That is in effect what we are doing to the next generation of Americans.

That is the backdrop against which this whole health care debate gets underway. We have deficits and debt that is piling up to the tune of \$188,000 per household at the end of the year 2019. So we ought to be looking at how we, No. 1, solve the health care crisis in a fiscally responsible way that does not spend trillions of more dollars and raise taxes and borrow more and more money.

Those are all issues I think need to be very carefully considered by all Members of the Senate as we make these important votes.

The other point I will make is this: There are, in the proposals that have been put forward—in all of them—tax increases to pay for this. The most recent version, the Finance Committee bill, is a \$1.7 trillion cost over a 10-year period. That is the least expensive, I might add, of all the bills that have been produced so far. There are five bills that have been produced by the Congress. The Finance Committee bill, to their credit, is at least the least costly of those, \$1.7 trillion over 10 years. That is still \$1.7 trillion in new spending.

Bear in mind that we already have a Medicare system which is destined for bankruptcy in the year 2017. We have all kinds of other long-term liabilities and Social Security and Medicaid and entitlement programs that pile up. We are going to have to do something about those at some point. Yet here we are talking about adding an almost \$2

trillion new entitlement on top of that crumbling foundation. I think most Americans would take issue with elected leaders who would do that, would take a program that literally is on the verge of bankruptcy and try to add another \$2 trillion program on top of it.

There is the overall cost of it to the taxpayers, but it is also how it is paid for. Obviously, it has to be paid for somehow or we deal with this issue of borrowing, which I mentioned earlier, so what is being proposed is a series of tax increases and a series of reductions—cuts in Medicare programs.

The Medicare cuts are going to be bad enough. Medicare Advantage takes a big whack, which is going to affect a lot of seniors around the country. The providers take a whack; hospitals, home health agencies, hospices, all those things will take a big whack. But you also have about \$400 billion of tax increases embedded into the latest version of the proposal—much higher than that in some of the other bills moving through the House—but nevertheless the American public is going to be handed the bill for this which will inevitably lead to higher taxes. So much so that the Joint Committee on Taxation, the Congressional Budget Office have estimated that 71 percent of the penalty will hit people earning less than \$250,000 a year. That conflicts and contradicts directly the commitment the President made of not raising taxes on people making less than \$250,000 a year.

They have also gone so far as to say the taxes that would be imposed, and there are a series of taxes as I said—insurance companies will be hit with taxes—the Congressional Budget Office said those taxes will be passed on, dollar for dollar, to people across this country. So the insurance companies, yes, they may remit the taxes, but they are going to pass on the cost. So you are going to see not only higher taxes on the insurance companies that get passed on in the form of higher premiums to individuals in this country—in other words, you are going to have higher insurance costs—but you also have taxes put in here that hit people who do not have health insurance. Those taxes get up to be about \$1,500 per year for people who do not have insurance. So people would be penalized, and that would apply, again, across all spectrums of earners, wage earners in this country.

But the CBO, as I said earlier, estimated 71 percent of that penalty is going to fall on people who earn less than \$250,000 a year. If you project on further—this, again, is the Congressional Budget Office and the Joint Committee on Taxation—they have said by the year 2019 89 percent of the taxes will be paid by taxpayers earning less than \$200,000 a year. So that huge tax burden, that \$400 billion initially that will grow when the bill is fully implemented, will fall disproportionately on people making less than \$250,000 a year; 89 percent of those taxes paid by

taxpayers earning less than \$250,000 a year.

So the enormous amounts of taxation that are contemplated in this bill—in addition to the Medicare cuts that are proposed to pay for and finance these changes in health care—are being passed off as health care reform.

My view on this is, No. 1, we, the American people, need to know these facts. I think what that would suggest is there ought to be an ample amount of time when we finally do have a bill. I know the Finance Committee is marking up their version of it. They expect to report it out later this week. But what we are going to see reported out is concepts, generalities. We do not have a bill with legislative language to react to yet. That is going to be put together with the bill produced by the Health, Education, Labor and Pensions Committee earlier. Those will be merged. At some point, that will be reduced to legislative language. When it is, we expect it will be in excess of 1,000 pages.

We now are talking conservatively about having a bill on the Senate floor, not next week but the week after, which will be fully longer than 1,000 pages, none of which any Member of the Senate has yet seen. The American people, the people who are going to be most impacted, will not have had an opportunity to be engaged in this debate or have their voices heard. So we need to make sure, at a minimum, we slow this process down so we take it step by step so we are not rushing to do something very quickly and hurriedly that would be a big mistake for the American people.

I suggest at a minimum we ought to have a very transparent, open process. When we have a bill, if it is in excess of 1,000 pages, that we have plenty of time not only for Members of the Senate to review it and read it and understand it but also for the American people to have that same opportunity.

There were amendments offered in the Senate Finance Committee that would allow a 72-hour period. That seems to be reasonable. That is 3 days, 3 days to look at something in excess of 1,000 pages. Yet that was voted down. My Republican colleagues on the committee offered that amendment, and it was voted down by the Democratic majority on the committee. But 72 hours at a minimum—I can't imagine that you could contemplate and fully grasp and understand that amount, that volume of information, and that kind of a bill in 72 hours, to start with. But at a minimum that should have been passed. That amendment was defeated at the Senate Finance Committee as were a number of other amendments that were offered by my colleagues on the Republican side.

Having said that, first off I think we ought to have an ample amount of time to review this bill. Second, I argue in terms of the process itself that rather than throwing overboard, throwing away what is a very—it is flawed. We

have a flawed health care system in this country. It is not perfect. OK? It has its problems. We all acknowledge that. We can fix those problems. But we should not throw everything good about it overboard. This will create all kinds of new government involvement and intervention in the decisions pertaining to health care. Now government is going to dictate what kinds of insurance plans or what should be in an insurance plan that, in order to be in compliance with this bill, you would have to be able to put forward. So people are going to have less and less choice, less and less freedom. Government is going to have more and more say, more control, more decision-making.

I think most people across this country find that to be very threatening. I think they are genuinely, honestly concerned about having the government have more and more influence on one-sixth of the economy on an issue that is as personal to them as their health care.

At a minimum, they ought to have an opportunity to review the bill. Second, we ought to take this thing and do it step by step and not throw it all overboard, not take what is good about the American health care system and throw it in the ditch simply because it has some flaws that need to be fixed. Those issues can be addressed.

We need to cover those who don't have coverage. We need to try to address the issue of cost. But these bills do not do that. We have not seen a bill yet, of the five that are being worked on in Congress, that, No. 1, reduces health care costs.

They all bend the cost curve up. You ask the Congressional Budget Office, and in every circumstance they will tell you: This does not reduce or drive down health care costs; it actually increases health care costs for most Americans.

Secondly, we have not had a bill yet that is actually what I would not characterize as a budget buster. All of these bills are several trillion dollars, as I said earlier, on top of programs that are destined for bankruptcy in the very near future.

Let's start slow. Let's take this step by step. Let's do this in a way that allows the American people to be engaged in this debate. It does affect them and their livelihoods in a very personal way. It does affect their pocketbooks. It will raise their taxes. And it will also—again, not my words; the Congressional Budget Office's—"lead to higher health care costs, not lower health care costs," which, at the end of day, was that not the whole purpose of this exercise in the first place?

So we are going to do everything we can on our side to open this and allow the American people to see it, to give ample time for them to be engaged and, secondly, to make sure that when health care reform is done by Congress, it is done in a way that is consistent with what I think most Americans believe should be done; that is, reducing

and driving down health care costs, not increasing premiums as these bills do, not spending trillions of dollars of their tax dollars in piling on additional entitlement programs on programs that are already going out of business here in the next few years. But we should do it in a way that is fiscally responsible. I think that is the least the American people expect of us. I think we ought to deliver on that. We ought to deliver on health care reform but reform that truly accomplishes those important goals.

I yield the floor.

The PRESIDING OFFICER (Mr. UDALL of Colorado.) The Senator from Oklahoma.

Mr. INHOFE. Mr. President, I ask unanimous consent that I be recognized to speak as in morning business.

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

Mr. INHOFE. It is my understanding that we have someone coming down wanting to speak, but there are a couple of things I wanted to mention.

First of all, when the Senator from South Dakota talks about health care reform, there are some things we can do for health care reform that we have promoted for quite some time. Certainly, medical malpractice is very significant. It is a huge cost. Defensive costs are a very large part of our health care costs. HSAs came into being a few years ago, and we have pilot programs where they—let's keep in mind, health care is the only product or service in America that I know of where there is no encouragement to shop around. Well, if you have HSAs, this is encouragement because if you spend less, you can enjoy the benefits of that; that is, put that into other programs. So I think there are some things we can do.

The second thing I would say about the subject that was covered very well by the Senator from South Dakota is that we don't know for sure what is going to be in the bill that comes out, but we do know this: Speaker PELOSI, over on the House side, has said that any bill that comes out of conference is going to have a government option. So they can masquerade it, they can talk about co-ops, they can talk about all of these things; we are going to eventually get something that comes out of conference and it is going to have a government option. That is, some people would say, socialized medicine. You can't compete with the government and have a system that has delivered the benefits our system has.

CAP AND TRADE

Secondly, the Senator from South Dakota could just as well be talking about another piece of legislation that is up right now; that is, the cap-and-trade bill. It is another one that has the same thing where you do not know the blanks.

Last Wednesday, there was a news conference by the Senator from Massachusetts, Mr. KERRY, and the Senator from California, Mrs. BOXER, and they

gave this program—they talked about this new kind of cap and trade, but they did not give any specifics. Nothing that was in there was specific in terms of where is the cap, how does the trading take place, how does the rationing take place.

The bottom line is this, though: Anything that has to do with any kind of cap and trade is going to be at least—at least—a \$300 billion annual tax increase. That was true back as long ago as the late 1990s when the Kyoto bill was up. We had the Kyoto bill; they did a study on this thing; it was done by the Wharton School of Economics. They said that the cost of this, if we were to comply with the restrictions of that treaty, would be somewhere between \$300 and \$330 billion a year. To put that into perspective, because sometimes it is confusing when you are talking about billion dollars and trillions of dollars, I remember the largest tax increase that was a general tax increase was back in 1993 in the Clinton-Gore White House, and it was \$32 billion. So this would be 10 times that amount.

So we have had several bills in the Senate since that time, and I would only say this: This is a different debate. It is going to come up and we are going to have a chance to talk about it. But the bottom line is that the Administrator of the EPA, Lisa Jackson, a very fine person, a person who was appointed by President Obama, made the statement that if we were to pass the Waxman-Markey bill, something like that, sign it into law, it wouldn't have the effect of reducing CO₂ at all. The reason is very obvious: We would only be doing that here in the United States.

AMENDMENT NO. 2566 TO H.R. 3326

Lastly, I did want to make one comment about a couple of votes that are going to come up, or at least one vote that is coming up at 3:45 today. My junior Senator from Oklahoma, Mr. COBURN, has an amendment. It is an excellent amendment. It is one I will support, although I have to say that I was tempted not to because I would only like to start the ball rolling, that if this body is willing to redefine what an earmark is, we could be unanimous on this side. An earmark should be an appropriation without authorization. This has been a 200-year fight between authorizers and appropriators, and if we will get to the point where we will accept the fact that if something has gone through the scrutiny of an authorization—the highway bill is a good example of this. We have 30 criteria in that authorization bill. We come up with criteria to determine how much should be spent in different categories. And on the floor, there are always things coming up that did not go through the authorization process, and therefore I would call those earmarks.

So I would only say this: In the amendment Senator COBURN has, it is going to address some 55 that are called earmarks, of which 6 were au-

thorized. I would like to be able to take those six out. I don't know whether we can do that. It would be very difficult to do prior to the vote.

But nonetheless, for future reference, if we are going to talk about earmarks, I think we need to define what an earmark is. It is an appropriation that has not been authorized. That is the thing we need to get after, and that will be one of my new wars I am starting.

I yield the floor.

The PRESIDING OFFICER. The Senator from Vermont is recognized.

AMENDMENT NO. 2601 TO H.R. 3326

Mr. SANDERS. Mr. President, I want to use this opportunity to say a few words about an amendment that will be voted on later this afternoon, and it is the Sanders-Dorgan Yellow Ribbon outreach amendment, No. 2601.

Every Member of the Senate knows that we have seen many thousands of soldiers coming home from Iraq and Afghanistan and they have come home with post-traumatic stress disorder in very large numbers. They have come home with traumatic brain injury, TBI, also at frightening numbers. The government, in a number of ways, has developed many programs to try to provide help and medical care for these brave soldiers and for their families.

In Vermont, a couple of years ago, we helped establish what I think is an excellent program that many other States around the country are beginning to look at, and the basic premise of the program we have established in Vermont is that while it is enormously important to make sure those who come home from Iraq and Afghanistan get the best services possible, we establish those health care services, those services don't mean anything unless the soldiers are able to take advantage of the services.

Given the nature of PTSD and TBI, that is sometimes, especially for the members of the Reserve and National Guard, very difficult. So you will have instances, especially in rural America, where people will come home from Iraq, they are going to be in emotional trouble, and there are going to be strains and stresses on their families, with their kids. They may be suffering from PTSD, but one of the symptoms of PTSD is you do not stand up and say: You know what, I have troubles and I need help. That is not what you do.

What we established in Vermont was an outreach program which was largely filled with the veterans from Iraq who would go out to the communities and drop in and sit down with soldiers and their wives face to face and just get a sense of how they are doing and through that personal visitation suggest to them that if there is a problem, they might want to take advantage of the services the VA is providing, which in my State are quite good, and to make them aware that it is not unusual, that they are not the only people who are dealing with PTSD or TBI. In truth, this outreach program has been quite successful.

Some years ago, the Congress established a Yellow Ribbon Program which is doing a good job, and the goal of that program is to educate people who come home from Iraq and Afghanistan about the services available to them. But we have not yet funded the kind of strong outreach effort that I believe we need where we are literally sending people out to National Guard families, especially maybe in rural areas, and making them understand that their problems are not unique, that there are services available to help them.

So outreach is the word here. We do it in Vermont in a very informal way, just person to person.

This amendment is \$20 million, and the offset comes from the \$126 billion in funds in title IX of the bill. It does not cut any one particular account. This \$20 million represents a fraction of 1 percent of the entire title.

So the issue here is that we have a serious problem with PTSD and TBI. I think it is terribly important that we do everything we can on a personal level to reach out to the families to get them the services they need. But, once again, you can have the greatest service in the world—I know we are trying. The Department of Defense is trying its best—but those services don't mean anything if veterans don't access them. So the goal is to get people into the services.

I would very much appreciate support for the Sanders-Dorgan amendment which will be coming up in a while.

I yield the floor.

The PRESIDING OFFICER. The Senator from Montana.

AMENDMENT NO. 2583 TO H.R. 3326

Mr. TESTER. Mr. President, later today the Senate will vote on the McCain amendment No. 2583. This amendment would terminate funding for research and development of the Army's full-scale hypersonic test facility known as the MARIAH hypersonic wind tunnel.

The MARIAH Hypersonic Wind Tunnel Program is under development in Butte, MT. It is the Nation's only program to develop the wind tunnel technology required to test and evaluate new hypersonic missiles, space access vehicles, and other advanced propulsion technology, technology the Air Force says we will need.

MARIAH will be the first true air hypersonic wind tunnel program. The program has met its technical milestones and has not encountered significant setbacks. In fact, the Army Aviation Missile Command has given this project high marks. Here is what the Army has said:

This research has shown great potential to be used in a missile test facility and is the only technology shown to have any possibility of meeting the requirement for a Missile Scale Hypersonic Wind Tunnel.

The Army has asked the MARIAH Program to provide testing capabilities at speeds of up to Mach 12. This is the next generation of hypersonic flight,

something that has never been done before. To get to that capability, cutting-edge research and technologies are required.

The program already has provided very real and discernible benefits to both the scientific community as well as our armed services. There is no other facility in the world capable of meeting the performance requirements at Mach 8 and above.

According to a 2000 Air Force Science Advisory Board report, this type of testing will be needed for space access vehicles, global reach aircraft, and missiles that require air-breathing propulsion to reach speeds above Mach 8.

The MARIAH project has worked with Princeton University and Lawrence Livermore and Sandia National Laboratories to develop technologies and computer modeling that exists nowhere else in the world.

The team has achieved world records by reaching test pressures of over 200,000 psi.

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

Mr. TESTER. I ask unanimous consent for additional time.

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

It also has developed one of the most powerful electron beams in the world.

Working with Sandia National Labs, MARIAH has developed a 1-megawatt electron beam to boost the energy supply needed to generate the enormous pressures required in a wind tunnel of this caliber.

It is the most powerful electron beam in the world, and its benefits can be applied well beyond this project to include shipboard missile defense, large-scale sterilization of food, mail and other items that could have a biohazard or bioweapon contaminant.

In conjunction with Princeton University, MARIAH has successfully developed three-dimensional computational fluid dynamic computer models capable of simulating the previously unexplored physics necessary for the Mach 8 and above conditions.

This is groundbreaking research that must be done before any missile, rocket or aircraft can be tested at hypersonic speeds.

Why does this matter? Why do we care about hypersonic capabilities?

The answer is foreign competition and foreign capabilities.

We know that Russia, China, and others are aggressively developing a new type of missile that is believed to be too fast for U.S. missile defense systems that are either planned or in use.

In particular, the India-Russia joint venture BrahMos is now engaged in laboratory testing of supersonic cruise and antiship missiles capable of speeds in excess of Mach 5.

According to the Air Force Research Labs' report of April 2009 entitled "Ballistic and Cruise Missile Threats":

Russian officials claim a new class of hypersonic vehicle is being developed to allow Russian strategic missiles to penetrate missile defense systems.

That report is referring to comments made by the commander of the Russian rocket forces who said last December that "By 2015 to 2020 the Russian strategic rocket forces will have new complete missile systems . . . capable of carrying out any tasks, including in conditions where an enemy uses anti-missile defense measures." This is a direct reference to hypersonic capabilities.

And yet some have said our military does not need this technology.

But when it comes to figuring out how to defeat this potential threat, I believe we should look into the future, not look back at reports that are 5 or 10 years old.

This project is about seeing a potential threat to our national defense looming on the horizon and finding a way to defeat it. It is vital to our national security.

I urge my colleagues to reject the McCain amendment.

I yield the floor.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, 2010

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of H.R. 3326, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 3326) making appropriations for the Department of Defense for the fiscal year ending September 30, 2010, and for other purposes.

Pending:

Coburn amendment No. 2565, to ensure transparency and accountability by providing that each Member of Congress and the Secretary of Defense has the ability to review \$1,500,000,000 in taxpayer funds allocated to the National Guard and Reserve components of the Armed Forces.

Barrasso amendment No. 2567, to prohibit the use of funds for the Center on Climate Change and National Security of the Central Intelligence Agency.

Franken amendment No. 2588, to prohibit the use of funds for any Federal contract with Halliburton Company, KBR, Inc., any of their subsidiaries or affiliates, or any other contracting party if such contractor or a subcontractor at any tier under such contract requires that employees or independent contractors sign mandatory arbitration clauses regarding certain claims.

Franken (for Bond/Leahy) amendment No. 2596, to limit the early retirement of tactical aircraft.

Franken (for Coburn) amendment No. 2566, to restore \$166,000,000 for the Armed Forces to prepare for and conduct combat operations, by eliminating low-priority congressionally directed spending items for all operations and maintenance accounts.

Sanders/Dorgan amendment No. 2601, to make available from Overseas Contingency Operations \$20,000,000 for outreach and reintegration services under the Yellow Ribbon Reintegration Program.

Lieberman modified amendment No. 2616, relating to the two-stage ground-based interceptor missile.

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. INOUE. Am I correct to assume that the first 30 minutes has been equally divided?

The PRESIDING OFFICER. The Senator is correct.

Mr. INOUE. I yield myself 10 minutes.

At the beginning of the year, the chairman of the House Appropriations Committee and I announced earmark reforms that go far beyond the transparency requirements enacted in 2007.

These reforms include a requirement for Members to post their earmark requests on their Web sites, make substantial reductions in the number and amount of earmarks compared to prior years' appropriations bills, and early and prompt committee announcements on which projects are funded in each of the annual appropriations bills.

There has never been as much transparency in the earmark process as there is today. In most cases, the public has had several months to review their elected Representatives' requests for funding. The bill on the floor today has 200 fewer projects and \$300 million less in funding for Member projects than last year's bill.

I believe this is a considerable improvement to how Congress does its business.

As chairman of the Appropriations Committee, I welcome any constructive suggestions on how to improve the operations and efficiency of the ways in which the committee accomplishes its vital work.

However, those suggestions should not compromise the constitutional principle that the power of the purse is invested in the Congress, and not the executive.

We must retain the checks and balances and keep the Congress and the executive as separate and co-equal branches of government.

That is why I must oppose the amendment offered by the Senator from Arizona. It purports to increase transparency of congressional earmarks by subjecting all of them to full and open competition.

In reality, it exempts congressional priorities from the normal, lawful process of how the Department of Defense purchases equipment, engages services, and develops new technologies.

For example, we have included a number of earmarks for which the Department has negotiated contracts already in place. These contracts were negotiated in full compliance with the law.

Simply because Congress added funds to accelerate important programs, such as the TB-33 towed sonar array, handheld radios for Special Operations Command, advanced radars for the F-15 fighter, and virtual interactive training equipment for National Guard

units around the country, the McCain amendment would require a new competition to take place.

This would disrupt important programs, delay procurement of valuable equipment, and cost the taxpayer more money.

The McCain amendment also disregards the fact that sometimes the Pentagon gets it wrong. There are many programs which are now in use on the battlefield that would not be there if the Defense Department's views had prevailed years ago.

Congress directed funds to the Predator unmanned aerial vehicle, life-saving Chitosan bandages, and the V-22—programs that would not exist if Congress had not directed funds to those specific purposes.

I ask my colleagues, What do they suppose would have happened to those programs if the Pentagon's bureaucracy had put these programs through the redtape required by the McCain amendment? Would the Predator be attacking our enemies in Afghanistan and Iraq? Or might it still be an exquisite, complex system that remains on the drawing board year after year?

Ultimately the McCain amendment establishes two sets of acquisition laws: one for items requested by the President, which may be subject to full and open, limited or no competition at all; and another set of rules for items added by the Congress.

The amendment rests on the faulty assumption that the Defense Department is unable to conduct oversight on congressionally directed spending, and that earmarks do not serve valid military purposes.

In 2008, the Inspector General of the Department of Defense reviewed 219 earmarks from the fiscal year 2007 Defense Appropriations Act.

The Inspector General determined:

The DOD personnel we interviewed and the respondents to our data call said that DOD performs oversight of earmarks identical to the oversight of other expenditures.

Furthermore, of the 219 earmarks that were reviewed by the Inspector General, all but 4 were found to "advance the primary mission and goals of the Department of Defense."

None of these four earmarks is contained in this year's bill. Even if they were, none of them would be competed under the McCain amendment because each of those earmarks was awarded to a nonprofit institution.

Due to these shortcomings in the amendment which has been offered, I have proposed an alternative amendment.

My amendment insures that each earmark added by Congress to benefit a for-profit entity shall be subject to the very same acquisition regulations that apply to items requested by the President in his annual budget request. This proposal applies the rules of the road equally to Congress and the President.

The amendment I propose also contains the standard exceptions to competition, including small business set-

asides. The McCain amendment, on the other hand, would eliminate these standard exemptions to competition for earmarks that support small businesses, minority-owned businesses, women-owned businesses, and service-connected disabled veteran-owned businesses.

My amendment is a reasonable and fair approach to balancing the acquisition rules as they apply to congressional spending items and items requested by the President. It insures that all spending items that are funded in this bill, regardless of who proposed them, are subject to the same rules for competition. I urge my colleagues to support my amendment and oppose the McCain amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. COCHRAN. Mr. President, I thank the distinguished chairman of our committee, Senator INOUE, for his leadership and the bipartisan way he has gone about managing his responsibilities as chairman of the Defense Appropriations Subcommittee. The committee has carefully reviewed the President's budget request in public hearings, calling before the committee representatives of the various service departments and also opening the opportunity for any outside interest to come to talk about what our needs are. In my judgment it has been a very careful, prudent, and workmanlike way to approach this very solemn and important responsibility. So he has brought us to where we are today, scheduled a vote, finally, on final passage later today, providing funding for our national security agencies, the Department of Defense, the men and women who have volunteered to put themselves in harm's way, to wear the uniform of our country and to defend our country against aggression here and abroad.

The Department is currently being funded by a continuing resolution. Although forcing the Department to operate under a temporary resolution is not a very good way to provide funding for a department charged with protecting our national security interests, it is the best we could do. I applaud the leadership of Senator INOUE for bringing a bill before us that will cover the entire Department of Defense for the remainder of the fiscal year, and for working with our counterparts in the House to begin resolving differences between the two bodies so that a bill can soon be presented to the President for signature.

There has been much discussion about earmarks. The chairman raised the issue. Later this afternoon we will vote on an earmark-related amendment or two. There are those who have been striving to inject additional earmark reforms and other ways of doing business. We think we have carefully reviewed all the requests for spending,

all of the provisions that permit spending in this bill, to be sure they are warranted, justified, in the national interest, and is not there only to serve some special interest or private interest of a Member of Congress.

Congress has worked, the House and Senate together, to improve and make significant changes in the process, adding procedures to facilitate the closest possible scrutiny of congressionally directed spending. In addition, the Appropriations Committee has gone beyond those requirements and imposed additional disclosure requirements and limitations on earmarking. But I am not going to support any suggested changes that will take away from the Congress or diminish the power of the Congress specifically to carry out its responsibilities under the Constitution to direct spending.

The committee has recommended, and the Senate has acted in its wisdom to approve or reject certain provisions of the bill. We have entertained all amendments. There is no closed rule. There is no specified number of amendments. There is no prohibition against any amendment of any Senator. So anyone who has a problem with this bill or any provision has had a right to say what it is, offer a change in the way of an amendment, and to have the Senate vote on it. That is the way we conduct business in the Senate on earmarks. It is an open process.

There is nothing in the procurement history of the Department of Defense to support the notion that the Department has been infallible in cost effectively procuring solutions for our Defense Department needs, and doing so in a fair, open, and evenhanded manner. The inspector general and GAO reports are replete with examples of poor judgment in Defense Department activities having nothing to do with congressionally directed spending. The GAO has upheld protests in recent years in which the Department did not perform its acquisition responsibilities in a lawful and appropriate manner.

So there are a lot of checks and balances that are at work in the process, and I think we have to remind ourselves how thorough and diligent many people are in assuring that the things that are approved in this bill serve the public interest, not just the private interests or whims of Members of Congress.

We have increased funding for the requirement that the Department of Defense identified over the summer for Mine Resistant Ambush Protected vehicles for our men and women serving in Afghanistan. We have imposed new requirements to help protect our soldiers in uniform and on the battlefield. We have included an additional \$1.2 billion for the MRAP program, and it is above what the administration has requested. I think we have acted responsibly, and I strongly defend the decision the committee has made on this subject. I have no doubt including funding for the procurement of these

additional vehicles will save American lives.

Congressionally directed defense initiatives should be subject to the closest scrutiny of the Appropriations Committee, and of the legislative process as a whole including the authorizing procedure which precedes the appropriations process. The activities of the Department of Defense were carefully scrutinized by the Armed Services Committee, which shares responsibilities for making these decisions, as well as the Appropriations Committee. But I do not think Members of this body should feel ashamed or embarrassed to promote the passage of this bill. It is a good bill. It enhances our national security, and it supports the efforts we are making to protect the security interests of this great country.

I thank the Senate for allowing me to make these comments and the distinguished Senator from Hawaii for being an active, responsible partner in the development of this legislation.

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. INOUE. Mr. President, I thank my distinguished colleague from Mississippi, the vice chairman of this committee, for his generous remarks.

I would like to point out to the Senate, this bill represents thousands of manhours of study, of research, of discussion, of debate. It contains spending of \$636.6 billion. It is a huge amount. We take our vows and responsibilities very seriously. It might be interesting to note that this measure—this huge measure—was passed by the Appropriations Committee by a vote of 30 to 0. It is a bipartisan bill. It was passed unanimously. These things do not happen every day, Mr. President. It demonstrates and I think it illustrates what bipartisanship can do, what work can do, and what investigation can do.

Senator COCHRAN and I are proud to present this measure to the Senate, to our colleagues, and we hope it will be passed accordingly.

Mr. President, I would like to take this opportunity to discuss the Defense Subcommittee's recommendations regarding the fiscal year 2010 missile defense programs. This bill supports the administration's request, stays at the authorized funding levels, and, most importantly, recommends changes that augment programs that this Congress has been championing year after year.

The committee strongly supports the near-term missile defense programs, including ground-based missile defense, Aegis sea-based missile defense, and theater high altitude area defense. The committee added funding to the budget request in order to enhance each of these initiatives and ensure that the administration remains focused on these programs that are supporting the warfighter today.

The committee provides an additional \$50 million above the budget request for the ground-based missile defense, GMD, program. After the admin-

istration submitted its budget for GMD, the Department of Defense approved a new integrated master test plan for the Missile Defense Agency, MDA. This plan requires seven additional ground-based interceptors that were not part of the budget request.

The Department informed the committee that additional funding was needed to sustain the production line in fiscal year 2010 in order to avoid costs associated with reconstituting the line in future years. The committee agreed with the Department and increased the funding.

This bill also provides funds above the budget request that will support the administration's new missile defense architecture in Europe. I strongly endorse the new plan. This new approach will enhance the protection of our allies in Europe, U.S. forces and their families deployed abroad, and the U.S. homeland from ballistic missile attack sooner than the previous program.

Some of my colleagues have stated that we are cancelling missile defense in Europe. Those indictments are simply inaccurate. Earlier this month, Secretary Gates responded to those types of criticisms as "either misinformed or misrepresenting the reality of what we are doing." I would have to agree with him.

Under the prior administration's approach, the missile defense system would not be capable of protecting against Iranian missiles until at least 2017. Under the new plan, the more threatened areas of Europe and the U.S. forces stationed there will have protection by the end of 2011. Given Iran's brazen missile tests late last month and its recent disclosure of a new, secret uranium enrichment facility, we need to get the right capability fielded sooner.

The 10 interceptors that would have been emplaced in Poland under the previous plan were only capable of engaging five ballistic missiles from Iran. Any number greater than five overwhelmed the proposed system, thereby rendering the U.S. homeland, U.S. allies and partners, as well as our deployed troops and their families, vulnerable. Furthermore, these interceptors are not effective against short- and medium-range missiles that are proliferating around the world.

The system proposed under the new plan is more robust. It will provide the U.S. and its allies with the protection necessary to counter today's real ballistic missile threats. The new plan is more responsive to the increasingly pervasive short- and medium-range missile threat and is adaptable to respond to longer range threats in the future.

The new architecture focuses on using the proven standard Missile-3 on Aegis ships and on the land together with additional sensor capability to provide more effective protection for ourselves and our allies.

I am pleased to say that the Defense appropriations bill provides over \$130

million in additional funding to support this new initiative:

The current inventory of SM-3 missiles is woefully inadequate to outfit the fleet of Aegis ballistic missile defense ships. The committee adds nearly \$60 million to procure an additional 6 SM-3 interceptors to ensure that more missiles are available. This funding will bring production capacity up to the current level.

The bill adds over \$40 million to begin procurement of an additional TPY-2 radar that could be deployed to Southern Europe. This is precisely what the new plan calls for. The additional sensor coverage will support protection of our European allies and deployed forces. It will also enhance the defense of the United States since it can provide early and precise tracking data for the U.S. ground-based interceptors emplaced in Alaska and California.

Finally, the committee provides an additional \$35 million to continue development of SM-3 interceptors. This increased funding will accelerate the future upgrades of SM-3. These advancements are intended to increase the range and lethality of the SM-3 missiles on Aegis ships and the land-based component of the new European architecture. This is a critical component to counter the threat of Iranian longer range missiles in the future.

In order to stay at the authorized level for missile defense, while at the same time adding funds to robustly support the near-term missile defense programs and the new European missile defense plan, the committee had to make difficult trade-offs.

The committee reduced programs that are technically challenging and uncertain to show promise for years to come.

The committee also reduced funds that were not needed in fiscal year 2010. For instance, several of my colleagues have expressed concern that this bill reduces funding for tests and targets by \$150 million. Our committee strongly supports a robust test program for missile defense, but we do not support funding that cannot be executed next year. The committee reduced funds that are premature for fiscal year 2010 and will not be required until later years. Let me explain.

In fiscal year 2009, the Congress appropriated nearly \$920 million for test and targets. According to data provided by the Missile Defense Agency, as of August 31, they have only spent \$360 million of those funds. This means that the Agency will carry forward into fiscal year 2010 about \$560 million.

The fiscal year 2010 request for test and targets is nearly \$970 million, a \$50 million increase over last year's funding.

The committee believes that a \$150 million reduction will not impact the testing program in fiscal year 2010. With the unexpended funds from fiscal year 2009 and this committee's recommendation for fiscal year 2010, MDA

will have over \$1.3 billion for testing purposes.

Furthermore, some of my colleagues will say that the reduction in the test and target budget line will stop testing of the two-stage ground-based interceptor that was intended for Poland under the prior administration's plan. That is simply not the case. Nowhere in this bill does the committee deny funding for the two-stage interceptor tests.

Indeed, the bulk of funding for these two tests is not in the test and target line of the budget request. Most of the funds for these tests are being carried forward from fiscal year 2009 for the European third site and are included in the \$50.5 million request in fiscal year 2010 for the European capability.

Let me close by saying that this bill responsibly and robustly funds the missile defense programs that Congress has supported for years. It provides additional funding for GMD, Aegis and TPY-2 radars. It provides funding that is strongly aligned with the administration's new plan for missile defense in Europe. I strongly urge my colleagues to support the committee's recommendation.

I suggest the absence of a quorum and ask unanimous consent that the time be charged equally.

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

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

AMENDMENT NO. 2588

Mr. SESSIONS. Mr. President, I would like to speak about the Franken amendment if it is OK with the bill managers.

The amendment would impose the will of Congress on private individuals and companies in a retroactive fashion, in validating employment contracts without due process of law. It is a political amendment, really at bottom, representing sort of a political attack directed at Halliburton, which is politically a matter of sensitivity.

Notwithstanding, the Congress should not be involved in writing or rewriting private contracts. That is just not how we should handle matters in the Senate, certainly without a lot of thought and care, and without the support or at least the opinion of the Department of Defense.

Senator FRANKEN offered this amendment because he apparently does not like the fact there are arbitration agreements in employment contracts. I would suggest that is common all over America today.

The Supreme Court of the United States has already resolved that arbitration agreements contained in employment contracts are not only valid but in most instances beneficial. In

most instances, arbitration is considered to be beneficial. In fact, employees tend to win more arbitration disputes than they do lawsuits in court. So I think that is a matter we should consider.

This is what Justice Kennedy on the Supreme Court wrote in *Adams v. Circuit City*:

Arbitration agreements allow parties to avoid the cost of litigation, a benefit that may be of particular importance in employment litigation, which often involves smaller sums of money than disputes concerning commercial contracts.

So I believe that instead of eliminating arbitration, we should probably be looking for ways to utilize mediation and arbitration more in these kinds of disputes.

Indeed, in a recent JAMS article published in June of 2009, entitled "Arbitrators Less Prone to Grant Dispositive Motions Than Courts," the author made the following points:

[A]rbitrators are generally much more reluctant than courts to grant dispositive motions—

That is, to wipe out a lawsuit altogether—

whether they are motions to dismiss a complaint or arbitration demand, or motions for summary judgment. Indeed, the rules of most major arbitration providers are silent about whether an arbitrator may entertain dispositive motions.

It goes on to say:

While courts have held that arbitrators have the inherent power to grant dispositive motions, the lack of explicit rules on the issue reflects the hesitance that most arbitrators feel in granting dispositive motions without a fact hearing.

It goes on to say:

There are at least three institutional reasons, which also highlight some of the advantages of arbitration:

The article says:

First, while every litigant is entitled to appeal the grant of a dispositive motion in federal or state court, a final decision in arbitration is subject to far less review. Moreover, appellate court review of such a grant is *de novo*, with the allegations or evidence, as the case may be, read in the light most favorable to the plaintiff. In addition, to the extent that the trial court has interpreted the law, the reviewing court is free to interpret and apply the law differently.

Basically, they are saying a person who has filed a complaint about their employment termination or agreement has a better shake of getting to court and having their matter heard than if they had filed a lawsuit because the strict rules of summary judgment often toss a lot of these lawsuits at an early stage.

It goes on to say:

The second difference between courts and arbitrators that explains why courts are more likely to grant motions to dismiss [an employee's lawsuit] is a differing level of concern about discovery. In the U.S. Supreme Court's recent decision in *Twombly*, for instance, "the Court placed heavy emphasis on the 'sprawling, costly, and hugely time-consuming' discovery that would ensue in permitting a bare allegation of an anti-trust conspiracy to survive a motion to dismiss, and expressed concern that such discovery" will push cost-conscious defendants

to settle even anemic cases. Discovery is much more limited in arbitrations and, thus, a denial of a motion to dismiss is less likely to result in such extensive discovery.

Finally, some commentators and judges have noted that the pressure of the increasing caseload that federal and state courts have seen over the last two decades makes the courts more tempted to dispose of cases on a motion, instead of after a trial on the merits. . . . [arbitrators have] reacted in precisely the opposite way—by constricting, not expanding, the use of dispositive motions.

In effect, allowing more cases to be fully heard.

There is no doubt that contracts are a property right. We do not have any allegations that the contracts Senator FRANKEN is trying to invalidate were imposed on employees or that fraud or coercion was involved in creating them.

To invalidate these contracts would violate not only the due process rights of employers but the employees as well. Employees could, indeed, benefit from arbitration rather than having to go to Federal court. The Congress is in no position to determine whether an employee negotiated for additional compensation in exchange for signing an arbitration agreement—

The PRESIDING OFFICER. The minority time has expired.

Mr. SESSIONS. Mr. President, I ask unanimous consent to have one additional moment.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. SESSIONS. Mr. President, I would conclude by saying that I do believe this is an important issue; that the Department of Defense is not asking for this. It is a reaction to some specific event, I assume, that has not justified changing Federal law. Arbitration in itself can be better for employees than filing an expensive lawsuit in Federal court. I believe we ought to at least dig into the issue far more in depth than we have before we up and pass such legislation as this.

I thank the Chair and yield the floor.

Mr. FRANKEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Hawaii controls the time.

Mr. INOUE. I yield.

The PRESIDING OFFICER. The Senator from Minnesota is recognized.

Mr. FRANKEN. Mr. President, article I, section 8 of our Constitution gives Congress the power to spend money for the welfare of our citizens. Because of this, Chief Justice Rehnquist wrote:

Congress may attach conditions on the receipt of Federal funds, and has repeatedly employed that power to further broad policy objectives.

That is why Congress could pass laws cutting off highway funds to States which didn't raise their drinking age to 21. That is why this whole bill is full of limitations on contractors—what bonuses they can give and what kinds of health care they can offer. The spending power is a broad power, and my amendment is well within it.

But don't take my word for it. I asked three of our Nation's top constitutional scholars—Akhil Amar, Laurence Tribe, and Erwin Chemerinsky, authorities regularly cited by everyone from Justice Scalia to Justice Stevens—what they thought about this amendment. Let me read their joint conclusion from this letter, which I ask unanimous consent to have printed in the RECORD:

Congress' power of the purse is expansive. S.A. 2588 falls squarely within its purview, and clearly does not infringe any constitutional prohibition.

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

DEAR MEMBERS OF THE UNITED STATES SENATE: Pursuant to a request from Senator Franken, we have reviewed his pending amendment (S.A. 2588) to the Department of Defense Appropriations Act of 2010 (H.R. 3326). Senator Franken invited us to consider whether any aspect of this amendment could arguably be found unconstitutional. We are confident that S.A. 2588 is well within the bounds of Congress' power under the Spending Clause. We are also confident that it raises no separate constitutional concerns.

The Constitution empowers Congress to "pay the Debts and provide for the common Defence and general Welfare of the United States." Art. I, §8, cl. 1. As Chief Justice Rehnquist wrote in *South Carolina v. Dole*, 483 U.S. 203, 206 (1987), "[i]ncident to this power, Congress may attach conditions on the receipt of federal funds, and has repeatedly employed the power 'to further broad policy objectives[.]'" In *South Carolina v. Dole*, for example, the Supreme Court upheld the National Minimum Drinking Age Act, a law that limited federal highway funds to states that did not adopt a minimum drinking age of twenty-one. This amendment is precisely the kind of "general welfare" legislation that the Spending Clause, as interpreted by *South Carolina v. Dole*, would permit.

Of course, the Spending Clause does not permit actions that are barred by other provisions of the Constitution. See, e.g., *Buckley v. Valeo*, 424 U.S. 1, 91 (1976) (per curiam). A review of the proposed measure reveals no such barriers.

This measure could conceivably impair government performance on certain federal contracts. The Contracts Clause of the Constitution, however, which prohibits passage of any "Law impairing the Obligation of Contracts," explicitly and exclusively applies to the states, not the federal government. See Art. I, 10, cl. 1 ("No State shall . . ."). Hence, the Contracts Clause could not provide the basis for a constitutional challenge to this amendment.

Similarly, S.A. 2588 is not remotely a Bill of Attainder. Instead of naming or describing a specific group of entities to be covered, the amendment erects a "generically applicable rule" for de-funding: the practice of requiring mandatory arbitration of certain claims. See *United States v. Brown*, 381 U.S. 437, 450 (1965). Moreover, denial of federal funding to an entity that declines to bring itself into compliance with purely prospective funding guidelines is a far cry from the punitive conduct that the Bill of Attainder clause was written to prohibit. If anything, while the "distinguishing feature of a Bill of Attainder is the substitution of a legislative for a judicial determination of guilt," this amendment empowers the courts as the only fora for the resolution of certain claims. *De Veau v. Braisted*, 363 U.S. 144, 160 (1960).

The Ex Post Facto Clause is also unavailing. Independent of the fact that the

restriction of funding in S.A. 2588 is conditioned on present or future conduct, it is long-settled that the Ex Post Facto Clause applies exclusively to criminal penalties. See *Calder v. Bull*, 3 U.S. 386 (1798).

Nor could it be plausibly argued that S.A. 2588 effects an unconstitutional "regulatory taking" without just compensation under the Fifth Amendment Takings Clause. The Takings Clause addresses only the physical seizure of private property and the regulatory destruction of particularly identifiable property rights or interests—air rights, mining rights, intellectual property, and the like. While a plurality of the Supreme Court has once voted to strike down federal legislation under the Takings Clause even where the statute did not seize any identifiable piece of private property or render worthless any particular property interest, it has done so only where the law in question imposed a "substantial and particularly far reaching" retroactive monetary liability that unforeseeably brought about a "considerable financial burden." *Eastern Enterprises v. Apfel*, 524 U.S. 498, 529–537 (1998). S.A. 2588, in contrast, is entirely unrelated to property, imposes no financial liability, and is in any event of purely prospective effect. Moreover, this measure cannot be said to impose on a narrowly targeted group burdens that in "justice and fairness," *Andrus v. Allard*, 444 U.S. 51, 65 (1979), ought to be borne by the public as a whole—the singular vice of takings of private property without "just compensation."

Someone unfamiliar with the jurisprudence of the past six decades might also allege that S.A. 2588 would violate substantive due process. However, the post-*Lochner* Supreme Court has consistently and wisely expressed an unwillingness to invalidate economic legislation on any such basis so long as it is at least arguably rational. See, e.g., *Ferguson v. Skrupa*, 372 U.S. 726, 731 (1963). In fact, the Supreme Court in the post-1937 era has invalidated economic legislation on the basis of substantive due process only where the legislature has acted in an indisputably "arbitrary and irrational" manner. *Usery v. Turner Elkhorn Mining Co.*, 428 U.S. 1, 15 (1976). This amendment does not even remotely fall within that narrow prohibition.

Congress' power of the purse is expansive. S.A. 2588 falls squarely within its purview, and clearly does not infringe any constitutional prohibition.

Respectfully submitted,

AKHIL REED AMAR,
Sterling Professor of
Law, Yale Law
School.

ERWIN CHERMERINSKY,
Founding Dean, Uni-
versity of California
at Irvine School of
Law.

LAURENCE H. TRIBE,
Carl M. Loeb Univer-
sity Professor, Har-
vard Law School.

Mr. FRANKEN. Mr. President, I also asked the Congressional Research Service, Congress's nonpartisan research arm, to take a look. They also did not find any cause for constitutional concern.

Senator SESSIONS says my amendment violates the due process clause. But as Professors Amar, Chemerinsky, and Tribe explain in their letter, the Supreme Court hasn't struck down economic laws on these grounds since 1937—unless the legislation is "arbitrary and irrational." Their conclusion: "This amendment does not even

remotely fall within that narrow prohibition.”

Let me be clear. This amendment does not single out any contractor. The text of the amendment does not list a single contractor by name, and if you read the amendment, you would know it. This amendment would defund any contractor who refused to give the victims of rape and discrimination their day in court.

Let me tell my colleagues how I think this amendment does speak to the Constitution. The Constitution gives everybody the right to due process of law. Today, defense contractors are using fine print in their contracts to deny women such as Jamie Leigh Jones their day in court. But it is not just Jamie Leigh Jones. This isn't about one instance, as Senator SESSIONS said. This is about many women across this country who have been victims of sexual assault and rape in Iraq and who have been hired by contractors and who have been forced to arbitrate by contractors. So women are not given their day in court. Instead, they are forcing them behind the closed doors of arbitration where the Federal Rules of Evidence don't apply, where decisions are binding and secret, and where decisions are issued by a private arbitrator often paid by the company itself.

This amendment does not seek to eliminate arbitration. It seeks to eliminate arbitration in cases of rape and sexual assault. The victim's—

The PRESIDING OFFICER. The majority time has expired.

Mr. FRANKEN. I ask unanimous consent for another 20 seconds.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. FRANKEN. Mr. President, the victims of rape and discrimination deserve their day in court. Congress plainly has the constitutional power to make that happen. I ask my colleagues to vote in support of my amendment.

The PRESIDING OFFICER. Under the previous order, there will now be 2 minutes of debate equally divided prior to a vote in relation to amendment No. 2567 offered by the Senator from Wyoming, Mr. BARRASSO.

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

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

AMENDMENT NO. 2566

Mr. COBURN. Mr. President, later we are going to vote on an amendment I have that is a prohibition on taking earmarked money from the operation and maintenance account of our armed services. Operation and maintenance—not procurement, not research, but operation and maintenance. The very key

thing that funds the ability of our warfighters and our Defense Department to do what they do is being used to pay for some very good projects, some not very good projects, most of which all are parochial; in other words, directed toward State benefit, through the operation and maintenance account.

Last year, I would remind my colleagues, the Navy ran out of operation and maintenance money. We had to supplement it. Why did we supplement it? Because we took their money last year and put it into earmarks instead of giving the Navy what it needed. I would remind the people listening to these words that when we do a supplemental, we charge the money to our kids and our grandkids. We don't have to live within the budget parameters.

So as we vote for this, earmark is another question. The question is: Where do you take the money when you go to earmark? When we take it from the very things that support, equip, and protect the people who are defending this country, and we put them at risk by not having the amount of dollars that are necessary for that, I think we are sending a terrible signal not just to the American people but to our troops that our parochial desires are more important than their well-being.

When the amendment comes up, I will defer saying anything else so we can move on. But the American people need to know. This is a couple hundred million bucks that is going to be taken away from the very necessary things they need. There are a couple of other gimmicks in here that actually lessen that account that allow for other things to be done in terms of not looking into inflation correctly, but we will pass on those amendments. But the fact is we ought not be playing games with the money that goes to protect our troops.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. INOUE. 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.

AMENDMENT NO. 2567

The PRESIDING OFFICER. Under the previous order, there will be 2 minutes of debate, equally divided, on the Barrasso amendment No. 2567.

The Senator from Wyoming is recognized.

Mr. BARRASSO. Mr. President, my amendment is simple. It prevents the Central Intelligence Agency from using any funds from the fiscal year 2010 Defense Appropriations bill to create or operate a center on climate change and national security.

To me, this center is redundant to activity already conducted by the CIA and other Federal agencies. There is no

reason to create an additional center to do work already being done.

We don't need to duplicate the work of others. Leave the task of gathering and analyzing climate change information to the agencies that do that work. Let them pass that information on to the analysts at the CIA to incorporate it into their assessments.

The experts at the CIA should focus work on foreign intelligence gathering to prevent the next terrorist attack. That is what they are trained and equipped to do.

I urge adoption of the amendment.

Mr. BOND. Mr. President, I rise today to express my support for the amendment, introduced by Senator BARRASSO, to strike the funding for the Central Intelligence Agency's Center on Climate Change and National Security. Climate change and the role of the intelligence community has been the subject of many lively discussions before the Select Committee on Intelligence.

As the vice chairman of this committee, I have worked with the chairman, Senator DIANNE FEINSTEIN, to resolve many issues of importance to the intelligence community. Unfortunately, on this issue of climate change, I have and will continue to disagree respectfully with the chairman.

I recognize that many Members on both sides of the aisle have strong beliefs about global climate change, its causes, and its possible consequences. Regardless of how you come down on this issue, however, our intelligence agencies are not the appropriate venue for dealing with it.

Members who support the creation of this center at CIA have cited the national security implications of global climate change. I agree that global climate change could have national and global security implications and that elements of the U.S. Government and private sector should be studying it, but the intelligence community is not one of those elements. Other government entities, such as the Environmental Protection Agency and the National Oceanic and Atmospheric Administration, are far better suited to study this issue.

The intelligence community is not a think tank. Its job, put simply, is to steal secrets and provide analysis of those secrets. There are no secrets to steal or to analyze when studying current weather patterns and estimating the geopolitical effects of an event 20 or more years in the future as this new CIA center would be asked to do.

The Senate Intelligence Committee is constantly reminded by various commissions, and the intelligence community itself, that our Nation's intelligence analysts are overtasked, overworked, and do not have adequate time to devote to long-term assessments, even on the important countries and issues they currently cover on a daily basis, such as terrorism, proliferation, Iran, Iraq, and China.

To those who support this center, I would ask a simple question: As we

face continued threats in Afghanistan, Iraq, and Iran, which analysts are going to be pulled from their current responsibilities to analyze the implications of climate change? Adequately covering all of the geopolitical implications of global climate change would require analysis on dozens of countries by analysts who are familiar with some or all of those countries. In short, it would require drawing on a substantial part of our analytic corp.

Can we really afford to have these analysts redirected from their current responsibilities to work on global climate change, especially when our nation is at war? I strongly doubt that terrorist leaders or rogue nations will stop plotting against us while our analysts take time off to ponder the potential implications of global climate change.

Through my many discussions with Senator FEINSTEIN, I am familiar with the motivation for this center. While I will vote in favor of Senator BARRASSO's amendment, I would be willing to work with Senator FEINSTEIN and others to find alternative avenues to obtain the information being sought through this center.

The bottom line is this—at a time when our Nation is fighting wars on two fronts, terrorists continue to plot attacks on our homeland, and the threat of proliferation grows, we cannot afford for our overtaxed intelligence agencies to take time off to ponder climate change.

The PRESIDING OFFICER. The Senator from Hawaii is recognized.

Mr. INOUE. Mr. President, I rise in opposition to the Barrasso amendment.

The mission of the CIA's Center for Climate Change and National Security is fully consistent with that of the intelligence community.

Creating this center does not require any additional CIA resources. It rearranges ongoing programs within the CIA so that existing funding can be more prudently spent.

The work of this center will not divert resources from other missions. It will not divert case officers or the tasking of satellites.

This center will continue in the traditional role of the intelligence community to support policymakers on national security issues related to climate change.

Therefore, I urge my colleagues to oppose this amendment.

I yield the floor.

Mr. BARRASSO. Mr. President, I ask for the yeas and nays on my amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The question is on agreeing to the amendment.

The clerk will call the roll.

The bill clerk called the roll.

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

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

The result was announced—yeas 38, nays 60, as follows:

[Rollcall Vote No. 307 Leg.]

YEAS—38

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

NAYS—60

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

NOT VOTING—2

Byrd Specter

The amendment (No. 2567) was rejected.

The PRESIDING OFFICER. The Senator from Mississippi is recognized.

Mr. COCHRAN. I move to table the motion to reconsider.

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

The Senator from Oklahoma is recognized.

AMENDMENT NO. 2618, AS MODIFIED

Mr. INHOFE. I ask unanimous consent to call up amendment No. 2618. I send a modification to the desk for its consideration. It would not require a rollcall vote.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Oklahoma [Mr. INHOFE] proposes an amendment numbered 2618, as modified.

The amendment is as follows:

(Purpose: To ensure sustainment, readiness, and acquisition of ammunition for all United States military services in order to meet long term peacetime and wartime requirements)

On page 245, between lines 8 and 9, insert the following:

SEC. 8104. None of the funds appropriated or otherwise made available by this Act may be used by the Secretary of the Army to transfer by sale, lease, loan, or donation government-owned ammunition production equipment or facilities to a private ammunition manufacturer until 60 days after the Secretary submits a certification to the congressional defense committees that the transfer will not increase the cost of ammunition procurement or negatively impact national security, military readiness, govern-

ment ammunition production or the United States ammunition production industrial base. The certification shall include, the Secretary of the Army's assessment of the following:

(1) A cost-benefit risk analysis for converting government-owned ammunition production equipment or facilities to private ammunition manufacturers, including cost-savings comparisons.

(2) A projection of the impact on the ammunition production industrial base in the United States of converting such equipment or facilities to private ammunition manufacturers.

(3) A projection of the capability to meet current and future ammunition production requirements by both government-owned and private ammunition manufacturers, as well as a combination of the two sources of production assets.

(4) Potential impact on national security and military readiness.

Mr. INHOFE. Mr. President, back in August of 2008 there was a directive that we should try to privatize as many of the Army Corps as possible. All this does is say, before any more are privatized, the Army should have to certify that—two things—it would not increase the cost or negatively impact national security. It has been cleared on both sides. I urge its adoption.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment.

The amendment (No. 2618), as modified, was agreed to.

Mr. COCHRAN. I move to table the motion to reconsider.

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

Mr. COCHRAN. I thank the Chair.

AMENDMENT NO. 2588

The PRESIDING OFFICER. Under the previous order, there will now be 2 minutes of debate equally divided prior to a vote in relation to amendment No. 2588, offered by the Senator from Minnesota, Mr. FRANKEN.

The Senator from Minnesota is recognized.

Mr. FRANKEN. Mr. President, when she was 19, Jamie Leigh Jones was drugged, gang-raped, and locked in a shipping container while working for KBR in Iraq. She tried to sue, but KBR pointed to the fine print in her contract and forced her into arbitration. Jamie Leigh, who came to Washington for this vote, has spent 3 years fighting just to get her day in court.

This is not just Jamie Leigh's story. It is the story of Mary Kinston of Ohio, Pamela Jones of Texas, and women around this country.

Fifty-eight groups across this country have taken a stand by supporting my amendment. As the National Alliance to End Sexual Violence said:

Asking a victim to enter arbitration with someone who raped her, or with a company that wouldn't protect her, is outrageous.

I agree. Victims of sexual assault and discrimination at least deserve their day in court. My amendment would make sure all military contractors, not just KBR, give victims that basic right.

I urge you to support this amendment.

Mr. NELSON of Florida. Mr. President, in December 2007, I became involved in an issue that I continue to work on today. The issue is our government's failure to prosecute multiple incidents of sexual assault against American civilians working alongside our military in Iraq and Afghanistan.

After surviving sometimes brutal attacks, these civilians too often found themselves in a legal blackhole. No one could tell them how to report the crime. No one knew who should investigate, putting precious time and evidence at risk. And perhaps worst of all, no one could guarantee their personal safety. Their attackers, meanwhile, usually fell outside the Uniform Code of Military Justice, UCMJ, the legal code that our men and women in uniform must obey, and beyond the effective reach of our criminal laws.

Over the last 2 years, I have been in frequent contact with the Departments of Defense, State, and Justice to ascertain the scope of this problem. Although these agencies have, on the whole, cooperated with my requests, I am not satisfied that we have a full picture of the number of sexual assaults perpetrated against Americans—contractors and military—in Iraq and Afghanistan. Nor do I believe that the respective departments have clear policies in place to address crimes committed by and against U.S. contractors serving in the war zones.

In April 2008, I chaired a hearing in the Foreign Relations Committee that included harrowing testimony from Mary Beth Kinston and Dawn Leamon, who were former civilian contractors for Kellogg Brown & Root, better known as KBR, which is a former subsidiary of Halliburton. These patriots testified that they were sexually assaulted while working for KBR in Iraq. In written testimony submitted to the committee, another woman, Jamie Leigh Jones, wrote of being drugged and gang-raped by her coworkers, also while working for KBR in Iraq. When she reported the crime to her superiors, Ms. Jones was locked in a shipping container. Not until her father was able to contact Congressman TED POE was Ms. Jones rescued from captivity.

When similar crimes are committed within the United States, on a permanent military base, or at one of our embassies overseas, the authority and responsibility to prosecute these crimes is clear. Yet because these crimes were committed abroad and the victims were civilians, their stories never see the light of day. There is no jury, no public record and no transcript.

Additionally, in many cases the victims' employer has moved for such cases to be heard in private arbitration. At the hearing, Dawn Leamon stated that there was an arbitration clause in the employment agreement she signed, and that KBR used that clause to prevent her from seeking justice in a court of law. These arbitration clauses, which have become all too

common, protect the companies from accountability when a crime occurs.

In response to the hearing and testimony of these courageous women, I offered an amendment in mark-up of the 2009 National Defense Authorization Act that later became law, Public Law 110-417. That amendment required government contractors to report crimes committed by or against employees in Iraq or Afghanistan to the appropriate U.S. government authorities. The law now requires contractors to have in place resources to assist victims and witnesses of crimes, so that there is a place to go for help. I also attempted to include a provision that would prevent contractors from requiring employees to enter into mandatory arbitration contracts.

I am pleased that Senator FRANKEN has taken an interest in this important issue, and I am cosponsoring the Franken amendment, Senate amendment No. 2588, which denies funding to Department of Defense contractors who continue to use mandatory arbitration clauses to force sexual assault victims into arbitration. If adopted, this important amendment would close the legal loophole that prevents the victims of sexual assault from getting the justice they deserve. It is my hope that justice for these women will encourage reform to the entire system.

I encourage my colleagues to join us in unanimously adopting this amendment. It is my hope that such a showing of support will urge its adoption in the final conference bill. It is imperative that this provision become law.

The PRESIDING OFFICER. The Senator from Alabama is recognized.

Mr. SESSIONS. Mr. President, first of all, with regard to this lawsuit, although it took some time, the court, the Fifth Circuit, has ruled that this matter is not arbitrable and this lady is entitled to a court trial because it goes outside normal employment matters.

The Department of Defense let me know to oppose this amendment. There are a number of reasons: because it goes far beyond the issue raised by my colleague from Minnesota. It eliminates arbitration for any claim under title VII of the Civil Rights Act, any claim resulting from negligent hiring, negligent supervision or retention of an employee—virtually any employment dispute that is now resolvable under arbitration, which the U.S. Supreme Court has said is good. Statistics show that employees get final judgment and actually win more cases under arbitration than they do going to the expense of a Federal court trial.

I think we should listen to the Department of Defense and vote no on this amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

Mr. FRANKEN. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The clerk will call the roll.

The legislative clerk called the roll.

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

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

The result was announced—yeas 68, nays 30, as follows:

[Rollcall Vote No. 308 Leg.]

YEAS—68

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

NAYS—30

Alexander	Cornyn	Kyl
Barrasso	Crapo	McCain
Bond	DeMint	McConnell
Brownback	Ensign	Risch
Bunning	Enzi	Roberts
Burr	Graham	Sessions
Chambliss	Gregg	Shelby
Coburn	Inhofe	Thune
Cochran	Isakson	Vitter
Corker	Johanns	Wicker

NOT VOTING—2

Byrd	Specter
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The amendment (No. 2588) was agreed to.

Mr. COCHRAN. Mr. President, I move to reconsider the vote.

Mr. BOND. I move to lay that motion upon the table.

The motion to lay upon the table was agreed to.

AMENDMENT NO. 2596

The PRESIDING OFFICER. Under the previous order, there will now be 2 minutes of debate, equally divided, prior to a vote in relation to amendment No. 2596 offered by the Senator from Missouri, Mr. BOND.

Mr. BOND. Mr. President, the January report of the Governmental Accountability Office said the Air Force had a couple of major challenges in sustaining the air sovereignty alert capabilities; that is, the air structure that keeps our homeland safe.

They say the Air Force has not developed plans because it is focused on other priorities. Retiring these planes would result in a lack of aircraft to meet the vital ASA mission. And 16 of the 18 sites across the Nation are manned by Air National Guard.

Senator LEAHY and I, as cochairs, have introduced this amendment, which is supported by the Guard, which says that we do not retire any more

fourth-generation aircraft until the Secretary tells the Congress how it is going to ensure the capability of the ASA mission.

Mr. LEAHY. Mr. President, I rise in support of the amendment offered by Senator BOND to temporarily suspend the retirement of tactical aircraft by the U.S. Air Force.

For months, Senator BOND and I as co-chairs of the Senate National Guard Caucus have repeatedly questioned Air Force and Department of Defense leadership about what it was doing to address a looming shortfall in available aircraft for Air National Guard Units. The Air Force acknowledges this issue and I know has spent a great deal of time studying options on how to address the shortfall.

But, after numerous requests at hearings and briefings for a concrete plan, at the start of the fiscal year 2010 fiscal year today, we still do not have a plan.

That is why Senator BOND and I have proposed an amendment that temporarily suspends the retirement of tactical aircraft until the Secretary of the Air Force provides Congress with a roadmap that resolves the looming tactical aircraft shortfall.

I hope this amendment prompts the Air Force to conclude its deliberations so that our National Guard and Reserves never get to point where there are units that have the best trained pilots and technicians in the world but there are no aircraft on the tarmac.

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. INOUE. I have no opposition to this amendment, nor am I aware of anyone on our side who opposes this. I am prepared for a voice vote.

Mr. BOND. Mr. President, there may be a request for a vote on this side.

There is objection on this side to having a voice vote.

I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second. The question is on agreeing to the amendment. The clerk will call the roll.

The bill clerk called the roll.

Mr. DURBIN. I announce that the Senator from West Virginia (Mr. BYRD), and the Senator from Pennsylvania (Mr. SPECTER) are necessarily absent.

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

The result was announced—yeas 91, nays 7, as follows:

[Rollcall Vote No. 309 Leg.]

YEAS—91

Akaka	Brownback	Corker
Alexander	Bunning	Cornyn
Barrasso	Burr	Crapo
Baucus	Burr	DeMint
Bayh	Cantwell	Dodd
Begich	Cardin	Dorgan
Bennet	Carper	Durbin
Bennett	Casey	Ensign
Bingaman	Chambliss	Enzi
Bond	Cochran	Feingold
Boxer	Collins	Feinstein
Brown	Conrad	Franken

Gillibrand	Levin	Sanders
Grassley	Lieberman	Schumer
Hagan	Lincoln	Shaheen
Harkin	Lugar	Shelby
Hatch	McCaskill	Snowe
Hutchison	McConnell	Stabenow
Inhofe	Menendez	Tester
Inouye	Merkley	Thune
Isakson	Mikulski	Udall (CO)
Johnson	Murkowski	Udall (NM)
Kaufman	Murray	Vitter
Kerry	Nelson (NE)	Voinovich
Kirk	Nelson (FL)	Warner
Klobuchar	Pryor	Webb
Kohl	Reed	Whitehouse
Landrieu	Reid	Wicker
Lautenberg	Risch	Wyden
LeMieux	Roberts	
Leahy	Rockefeller	

NAYS—7

Coburn	Johanns	Sessions
Graham	Kyl	
Gregg	McCain	

NOT VOTING—2

Byrd	Specter
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The amendment (No. 2596) was agreed to.

Mr. INOUE. Mr. President, I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 2565

The PRESIDING OFFICER. Under the previous order, there will now be 2 minutes of debate equally divided prior to a vote in relation to amendment No. 2565 offered by the Senator from Oklahoma, Mr. COBURN.

The Senator from Oklahoma.

Mr. COBURN. This is a simple amendment. I am appreciative of the fact that the National Guard and Army Reserve will get additional funds. All the amendment says is, run that by the Defense Department. They don't get to approve it or disapprove it, but they ought to get to see it. And so should we. Every one of us has National Guard units. Many of us have Army Reserve units. Why should we not have access to information as to how they will spend the money? It is about transparency. The American people ought to see how they will spend the money. I want to see how it will be spent in Oklahoma. All Senators should be able to see how it is spent. The Secretary of Defense will not be able to stop it. It only says he is knowledgeable and responsible, when utilizing those forces overseas, for their deployment and equipment.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, the Coburn amendment, which would impose an additional layer of bureaucracy to the National Guard and Reserve's spending decisions, is unnecessary and burdensome. This proposal mandates a new component of review and assessment in a process where a high level of accountability already exists.

As is already required by law, the Assistant Secretary of Defense for Reserve Affairs sends reports to Congress, including the four committees which oversee defense spending.

These reports explain, in detail, how the various Reserve component chiefs

have determined to spend the funds provided.

The Guard plays a unique role in our country; they defend us here at home and, as has been the case all too often in recent years, they fight for us abroad. This special status directly affects the Guard's spending priorities, and in recent years they have focused on buying "dual use" equipment that is good for both foreign war and for domestic missions.

Based on this reality, it is important that Congress maintain the Reserve component chief's level of influence so they can spend funds based on their most urgent requirements and unique needs.

Finally, creating statutory requirement for an additional "thorough review," involving the Secretary of Defense and other officials, will likely delay access to these funds. At a time when our Guard is called upon more frequently at home and is being relied upon so heavily in Iraq and Afghanistan, to risk underresourcing them and not providing the full support of Congress is irresponsible and negligent.

I call upon my colleagues to support the Guard and Reserves and reject this amendment.

I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is on agreeing to amendment No. 2565.

The clerk will call the roll.

Mr. DURBIN. I announce that the Senator from West Virginia (Mr. BYRD), and the Senator from Pennsylvania (Mr. SPECTER) are necessarily absent.

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

The result was announced—yeas 28, nays 70, as follows:

[Rollcall Vote No. 310 Leg.]

YEAS—28

Barrasso	Enzi	McCaskill
Bunning	Graham	McConnell
Burr	Gregg	Murkowski
Carper	Hatch	Sessions
Chambliss	Inhofe	Shelby
Coburn	Isakson	Thune
Collins	Johanns	Vitter
Corker	Kyl	Wicker
DeMint	LeMieux	
Ensign	McCain	

NAYS—70

Akaka	Dorgan	Lieberman
Alexander	Durbin	Lincoln
Baucus	Feingold	Lugar
Bayh	Feinstein	Menendez
Begich	Franken	Merkley
Bennet	Gillibrand	Mikulski
Bennett	Grassley	Murray
Bingaman	Hagan	Nelson (NE)
Bond	Harkin	Nelson (FL)
Boxer	Hutchison	Pryor
Brown	Inouye	Reed
Brownback	Johnson	Reid
Burris	Kaufman	Risch
Cantwell	Kerry	Roberts
Cardin	Kirk	Rockefeller
Casey	Klobuchar	Sanders
Cochran	Kohl	Schumer
Conrad	Landrieu	Shaheen
Cornyn	Lautenberg	Snowe
Crapo	Leahy	Stabenow
Dodd	Levin	Tester

Udall (CO) Warner Wyden
Udall (NM) Webb
Voinovich Whitehouse

NOT VOTING—2

Byrd Specter

The amendment (No. 2565) was rejected.

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

Mr. INOUE. I move to lay that motion on the table. The motion to lay on the table was agreed to.

AMENDMENT NO. 2566

The PRESIDING OFFICER. Under the previous order, there will now be 2 minutes equally divided prior to a vote in relation to amendment No. 2566, offered by the Senator from Oklahoma, Mr. COBURN.

The Senator from Oklahoma.

Mr. COBURN. Mr. President, I spoke earlier on this amendment and will yield my time to the Senator from Arizona.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Mr. President, this is a pretty simple amendment. It prohibits the spending of \$165 million on earmarks. We would free up \$165 million and return it to the general pool of operation and maintenance funding. So it is very clear the administration, on the operation and maintenance account, says the bill cuts the O&M account, and this restores some of it.

I again would like to point out that operation and maintenance is one of the most critical aspects of our defense of this Nation. This amendment simply prohibits expenditures on any earmarks in the operation and maintenance account.

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. INOUE. Mr. President, the Senator from Oklahoma has proposed an amendment to strip the Defense bill of the earmarks in the O&M appropriations. As I have said previously, the Defense Subcommittee reviews the entire budget and adjusts funds based on that review. Funds in the O&M budget are not reduced with the intent to fund earmarks.

Earmarks in O&M provide additional funds to repair facilities and enhance security on our military bases, augment maintenance efforts, and equip our military members with personal protection devices.

During this debate, the Senator from Oklahoma has spoken about his concerns to provide adequate funding for the National Guard. I share that concern. I would point out that if this amendment is adopted, it would decrease funding in excess of \$75 million provided by this subcommittee to National Guard units in nearly 20 States.

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

Mr. INOUE. I hope my colleagues will vote against it.

Mr. COBURN. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There appears to be.

The question is on agreeing to the amendment.

The clerk will call the roll.

The assistant legislative clerk called the roll.

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

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

The result was announced—yeas 25, nays 73, as follows:

[Rollcall Vote No. 311 Leg.]

YEAS—25

Barrasso	Ensign	Lugar
Bayh	Enzi	McCain
Bunning	Feingold	McCaskill
Burr	Grassley	Risch
Chambliss	Inhofe	Sessions
Coburn	Isakson	Thune
Cornyn	Johanns	Vitter
Crapo	Kyl	
DeMint	LeMieux	

NAYS—73

Akaka	Gillibrand	Murray
Alexander	Graham	Nelson (NE)
Baucus	Gregg	Nelson (FL)
Begich	Hagan	Pryor
Bennet	Harkin	Reed
Bennett	Hatch	Reid
Bingaman	Hutchison	Roberts
Bond	Inouye	Rockefeller
Boxer	Johnson	Sanders
Brown	Kaufman	Schumer
Brownback	Kerry	Shaheen
Burr	Kirk	Shelby
Cantwell	Klobuchar	Snowe
Cardin	Kohl	Stabenow
Carper	Landrieu	Tester
Casey	Lautenberg	Udall (CO)
Cochran	Leahy	Udall (NM)
Collins	Levin	Voinovich
Conrad	Lieberman	Warner
Corker	Lincoln	Webb
Dodd	McConnell	Whitehouse
Dorgan	Menendez	Wicker
Durbin	Merkley	Wyden
Feinstein	Mikulski	
Franken	Murkowski	

NOT VOTING—2

Byrd Specter

The amendment (No. 2566) was rejected.

Mr. INOUE. Mr. President, I move to reconsider the vote and to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Vermont is recognized.

AMENDMENT NO. 2601

Mr. SANDERS. Mr. President, my amendment is supported by Senators DORGAN and LEAHY, the National Guard Association, the U.S. Air Force Association, and the U.S. Army and Reserve Officers Association.

This is a simple amendment. Many of the men and women are coming home from Iraq and Afghanistan with PTSD and TBI. While the DOD and the Veterans' Administration have done a good job in providing services to the men and women, not everybody is accessing the services.

This amendment provides \$20 million for outreach efforts so that State by State we can send people out to talk to them and make sure they understand the facilities that are there and available to them to help them with PTSD and TBI.

My understanding is that this amendment has been accepted. I thank the chairman and the ranking member.

The PRESIDING OFFICER. The Senator from Hawaii is recognized.

Mr. INOUE. Mr. President, there is no opposition to the amendment.

The PRESIDING OFFICER. Is there further debate on the amendment?

If not, the question is on agreeing to the amendment.

The amendment (No. 2601) was agreed to.

Mr. INOUE. 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.

SENATOR BAUCUS'S 11,000TH VOTE

Mr. REID. Mr. President, if I can have the attention of the Senate, I had a chance to go to Montana with Senator BAUCUS. I had never been there. Nevada is a huge State area-wise, but Montana is twice as big as Nevada. We are the seventh largest State and Montana is the fourth largest. I can remember flying in that airplane and thinking it is unbelievable how big that State is. Well, that is kind of like MAX BAUCUS. He always does things in the form of a marathon. As I have indicated, Montana is the fourth largest State in the Union. It is called Big Sky Country, and it is. It is such a beautiful State.

The first time MAX ran statewide, he walked the State of Montana—820 miles he walked. I was always very satisfied that I was a marathoner, but I talked to BAUCUS, and, of course, he has run more of them than I have and faster than I have. I dropped the subject quickly when I learned he isn't satisfied with a marathon that is 26¼ miles. He runs 50 miles. That shows the grit this man has. During one of his 50-milers, at 8 miles he fell very hard. He hit his head. There was blood all over. But he got up and ran another 42 miles in that race. He had hurt himself. A few weeks later, he had to be hospitalized as a result of that injury he suffered falling down. So it is pretty easy to understand why this marathoner he has been involved in with health care has been fairly simple compared to some in which he has been involved.

I am here to congratulate MAX BAUCUS on the next vote, which will be his 11,000th vote in the Senate. He has had a distinguished career in the House and in the Senate. He has been chairman of the Environment and Public Works Committee and is now chairman of the Finance Committee.

I have such great respect for Senator BAUCUS. There are a lot of career high-lights, and I could list a lot of them. But for me, the most significant thing he did is not a bill you will see in the archives; it is his having stepped forward at a time when nobody thought it could be done, and in the face such opposition, he helped stop the privatization of Social Security. That was done by a lot of people, but it could never have been done without MAX BAUCUS.

The people of Montana love MAX BAUCUS because they know he is a marathoner, he is a man of strength and courage, and he understands the State of Montana.

It is hard for me to articulate the relationship I have with Senator BAUCUS. It is a relationship I prize. He is my friend and my confidant. He has a very tough job running the Finance Committee. Every big issue that comes before the Senate winds up in the Finance Committee because we have to figure out a way to pay for it. He runs that committee with an iron hand. We all know how tough he can be on that committee, but we also know how fair he can be. I learned that working on the Children's Health Insurance Program. That was a bipartisan piece of legislation. As a result of the work he did on that committee, we have more than 14 million children now who are able to participate in that program who would not have been able to do so otherwise. It was done on a bipartisan basis.

I join with everybody here in congratulating MAX BAUCUS, who is, to me, what a Senator should be. He understands the significance of being a Senator, the significance of representing his State, and in the process he has become a great U.S. Senator.

The PRESIDING OFFICER. The Republican leader is recognized.

Mr. MCCONNELL. Mr. President, I say congratulations from this side of the aisle to the distinguished Senator from Montana on his 11,000th vote, which he is about to cast. The majority leader pointed out his great physical prowess in running these marathons. As he also indicated, presiding over the Finance Committee in the last few weeks has certainly qualified him for another long run.

For over 30 years, Senator BAUCUS has represented Montana in the State legislature, in the U.S. House of Representatives, and in the U.S. Senate. He grew up on his great-grandfather's ranch, and he has always fought hard for the people of the Big Sky State. He has had a simple message: Montana comes first. He has fought to strengthen our Nation's transportation infrastructure. As we have seen over the past couple of weeks, he has a pretty strong work ethic, which should not surprise any of us for a guy who, as the majority leader pointed out, walked across the entire length of Montana.

Senator BAUCUS has given three decades of dedicated service and has kept his pledge to put Montana first. I join the majority leader in congratulating him on his 11,000th vote.

(Applause.)

The PRESIDING OFFICER. The junior Senator from Montana is recognized.

Mr. TESTER. Mr. President, I wish to add a few comments to those of the majority leader and the Republican leader.

I say to MAX BAUCUS, congratulations on your 11,000th vote. You have

done such a great job over the many years you have served the people of the great State of Montana—me being one of those.

I give MAX a bad time, saying when he came to the Senate, I was just a child. Well, when he came to the Senate, he was just a child too. I have a lot of respect for this man.

Folks say MAX is a lucky guy, and he is. But he creates that luck with hard work. He works very hard not only for the people of Montana but for this Nation.

I thank you, MAX. Congratulations, and all the best.

The PRESIDING OFFICER. The Senator from Iowa is recognized.

Mr. GRASSLEY. Mr. President, as the Member of the Senate who has worked closely with Senator BAUCUS over the last 10 years—either he has been chairman of the committee or I have been—I congratulate him on this 11,000th vote. But more important, I thank him for the close working relationship we have had, which I think people back home in our respective States probably don't observe, which is that there is a great deal of bipartisanship that goes on in Congress. I think Senator BAUCUS and I have established a close working relationship that refutes that everything in Washington is political. I thank him for that close working relationship and, more importantly, I thank him for putting up with a lot of problems I have created for him.

The PRESIDING OFFICER. The Senator from Montana is recognized.

Mr. BAUCUS. Mr. President, I am very honored by all the comments of the majority leader, who is a good friend; Senator MCCONNELL; my good friend JON TESTER; and the Senator from Iowa, Mr. GRASSLEY. I am also honored to have served in this body.

Everyone here cares a lot about public service and about people. We are all here because we care. I very much appreciate working with all of you. There are a lot of characters here, different personalities. The bottom line is that everybody is here for their State and the Nation.

I feel as if I am the luckiest guy in the world. I think this is the best job one could have. I have 900,000 of the world's greatest bosses, the people of Montana. They are terrific and wonderful. I am just a hired hand working for them.

Combined with all of you and all the staff here, you are all people here who care about our great country. I thank you very much. I could not be more touched and appreciative. Thank you.

(Applause.)

AMENDMENT NO. 2580

The PRESIDING OFFICER. Under the previous order, there will now be 2 minutes of debate, equally divided, prior to a vote in relation to amendment No. 2580 to be offered by the Senator from Arizona, Mr. MCCAIN.

The clerk will report.

The legislative clerk read as follows:

The Senator from Arizona [Mr. MCCAIN] proposes an amendment numbered 2580.

Mr. MCCAIN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To strike amounts available for procurement of C-17 aircraft in excess of the amount requested by the President in the budget for fiscal year 2010)

At the appropriate place, insert the following:

SEC. _____. The amount appropriated by title III under the heading "AIRCRAFT PROCUREMENT, AIR FORCE" is hereby reduced by \$2,500,000,000, the amount equal to the amount by which the amount available under that heading for the procurement of C-17 aircraft exceeds the amount requested by the President in the budget for the Department of Defense for fiscal year 2010 for the procurement of such aircraft.

Mr. MCCAIN. Mr. President, President Eisenhower warned us about the military-industrial complex. Well, we don't have to worry about the military anymore; it is now just the industrial complex and the lobbyists.

This amendment strikes the \$2.5 billion for 10 C-17 aircraft. Again, it used to be the military-industrial complex; now it is the industrial complex. The President, the Secretary of Defense, the Chairman of the Joint Chiefs, the Chief of Staff and Secretary of the Air Force, the commander of U.S. Transportation Command, and the chairmen and ranking members of the Senate and House Armed Services Committees have all agreed with the Secretary of Defense, who says that the "205 C-17s in the force and on order, together with the existing fleet of C-5 aircraft, are sufficient to meet the Department's future airlift needs—even under the most stressing situations."

Mr. President, the spending goes on, the beat goes on, and at some time the American people are going to say "enough."

Mr. DODD. Mr. President, it may feel like Ground Hog Day for some of us. We soundly defeated a similar amendment proposed by the Senator from Arizona last week, by a vote of 34-64. The reasons are clear, and have remained unchanged.

The C-17 has proven its worth to our troops in Iraq and Afghanistan, to our taxpayers that foot the bill, and to the workers that labor day in and day out to provide our military with these critical planes. Our need for these planes is not shrinking—in fact, it is growing. Since the last formal assessment of our military's airlift requirements 4 years ago, our forces have been expanded by 92,000 troops. Our overseas commitments have dramatically increased, resulting in many C-17s flying nearly double the flight hours that were planned for. Why? Because the C-17 is the most versatile and capable airlift plane in our arsenal.

Despite these facts, the Senator from Arizona insists that we extend the life

of our 40-year-old C-5 fleet, at a high cost to our taxpayer. Over the administration's objections, he coauthorized a bill recently that was approved by this body that actually prohibits the military from retiring C-5s. According to the Air Force, the C-5B has already reached 147 percent of planned life expectancy. This is a fleet we must begin to replace.

I urge my colleagues to join me in defeating amendment No. 2580, for the sake of our troops, our taxpayers, and America's workers.

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. INOUE. Mr. President, I rise to oppose this amendment which seeks to eliminate funding on the C-17. I am certain the Senate is aware that Vice Chairman COCHRAN and I proposed and the committee unanimously accepted our recommendation to reallocate \$2.5 billion to procure 10 additional C-17s.

Last week, the Senate voted overwhelmingly to defeat the Senator's amendment which would have deleted funding for the C-17 program. I believe the sense of the Senate is very clear. Continuing with the C-17 program is a high priority. It is a critical national security enabler, providing the airlift our forces need for today's fight and for years to come.

I oppose the amendment.

The PRESIDING OFFICER. The question is on agreeing to amendment No. 2580.

Mr. COCHRAN. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The clerk will call the roll.

The legislative clerk called the roll.

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

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

The result was announced—yeas 30, nays 68, as follows:

[Rollcall Vote No. 312 Leg.]

YEAS—30

Alexander	Feingold	McCain
Barrasso	Franken	McConnell
Bennet	Gregg	Merkley
Cardin	Kaufman	Sanders
Carper	Klobuchar	Sessions
Coburn	Kohl	Thune
Conrad	Kyl	Udall (CO)
Corker	LeMieux	Voinovich
Dorgan	Levin	Warner
Enzi	Lugar	Webb

NAYS—68

Akaka	Cantwell	Graham
Baucus	Casey	Grassley
Bayh	Chambliss	Hagan
Begich	Cochran	Harkin
Bennett	Collins	Hatch
Bingaman	Cornyn	Hutchison
Bond	Crapo	Inhofe
Boxer	DeMint	Inouye
Brown	Dodd	Isakson
Brownback	Durbin	Johanns
Bunning	Ensign	Johnson
Burr	Feinstein	Kerry
Burris	Gillibrand	Kirk

Landrieu	Nelson (NE)	Shelby
Lautenberg	Nelson (FL)	Snowe
Leahy	Pryor	Stabenow
Lieberman	Reed	Tester
Lincoln	Reid	Udall (NM)
McCaskill	Risch	Vitter
Menendez	Roberts	Whitehouse
Mikulski	Rockefeller	Wicker
Murkowski	Schumer	Wyden
Murray	Shaheen	

NOT VOTING—2

Byrd	Specter
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The amendment (No. 2580), was rejected.

AMENDMENT NO. 2623

The PRESIDING OFFICER. Under the previous order, there will now be 2 minutes of debate equally divided prior to a vote in relation to amendment No. 2623, to be offered by the Senator from Hawaii, Mr. INOUE. The Senator from Hawaii is recognized.

Mr. INOUE. Mr. President, the McCain amendment rests on the assumption that congressional earmarks are for special treatment in awarding these contracts. But DOD's own inspector general concluded that the Department conducts identical oversight on earmarks and items funded in the President's budget. The McCain amendment also eliminates small business set-asides for earmarks. These set-asides benefit minority-owned, women-owned, disabled-veteran-owned businesses.

My amendment applies competitive contracting to earmarks for for-profit entities on the same basis as items in the President's budget, and protects funding for small businesses. The items funded by Congress or the President ought to be awarded using the same rules of the road.

I urge Senators to support my amendment.

The amendment is No. 2623. I call that up.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Hawaii [Mr. INOUE] proposes an amendment numbered 2623.

Mr. INOUE. I ask further reading be dispensed with.

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

The amendment is as follows:

(Purpose: To provide full and open competition for congressionally directed spending items)

At the appropriate place, insert the following:

SEC. _____. (a) NATURE OF FULL AND OPEN COMPETITION FOR CONGRESSIONALLY DIRECTED SPENDING ITEMS.—Each congressionally directed spending item specified in this Act or the report accompanying this Act that is intended for award to a for-profit entity shall be subject to acquisition regulations for full and open competition on the same basis as each spending item intended for a for-profit entity that is contained in the budget request of the President.

(b) EXCEPTIONS.—Subsection (a) shall not apply to any contract awarded—

(1) by a means that is required by Federal statute, including for a purchase made under a mandated preferential program;

(2) pursuant to the Small Business Act (15 U.S.C. 631 et seq.); or

(3) in an amount less than the simplified acquisition threshold described in section 302A(a) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 252a(a)).

(c) CONGRESSIONALLY DIRECTED SPENDING ITEM DEFINED.—In this section, the term "congressionally directed spending item" means the following:

(1) A congressionally directed spending item, as defined in rule XLIV of the Standing Rules of the Senate.

(2) A congressional earmark for purposes of rule XXI of the House of Representatives.

The PRESIDING OFFICER. Who yields time in opposition?

The Senator from Arizona is recognized.

Mr. MCCAIN. Mr. President, the side-by-side here is to basically neuter the intent of my amendment, which calls for competition for earmarks that are intended for for-profit companies. That is all it is, pure and simple. It is very well known how jealously the appropriators guard their earmarking, pork-barreling projects. My amendment, which is a side-by-side, would say we just put earmarks up for competition. The amendment of Senator INOUE will gut that provision.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

Mr. INOUE. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The clerk will call the roll.

The assistant legislative clerk called the roll.

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

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

The result was announced—yeas 77, nays 21, as follows:

[Rollcall Vote No. 313 Leg.]

YEAS—77

Akaka	Franken	Mikulski
Alexander	Gillibrand	Murkowski
Baucus	Gregg	Murray
Bayh	Hagan	Nelson (NE)
Begich	Harkin	Nelson (FL)
Bennet	Hatch	Pryor
Bennett	Hutchison	Reed
Bingaman	Inhofe	Reid
Bond	Inouye	Roberts
Boxer	Isakson	Rockefeller
Brown	Johnson	Sanders
Brownback	Kaufman	Schumer
Burris	Kerry	Shaheen
Cantwell	Kirk	Shelby
Cardin	Klobuchar	Snowe
Carper	Kohl	Stabenow
Casey	Landrieu	Tester
Chambliss	Lautenberg	Udall (CO)
Cochran	Leahy	Udall (NM)
Collins	Levin	Voinovich
Conrad	Lieberman	Warner
Cornyn	Lincoln	Webb
Dodd	Lugar	Whitehouse
Dorgan	McConnell	Wicker
Durbin	Menendez	Wyden
Feinstein	Merkley	

NAYS—21

Barrasso	Burr	Corker
Bunning	Coburn	Crapo

DeMint	Grassley	McCaskill
Ensign	Johanns	Risch
Enzi	Kyl	Sessions
Feingold	LeMieux	Thune
Graham	McCain	Vitter

NOT VOTING—2

Byrd	Specter
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The amendment (No. 2623) was agreed to.

AMENDMENT NO. 2560

The PRESIDING OFFICER. Under the previous order, there will now be 2 minutes of debate equally divided prior to a vote on amendment No. 2560 offered by the Senator from Arizona.

The clerk will report.

The bill clerk read as follows:

The Senator from Arizona [Mr. McCain] proposes an amendment numbered 2560.

The amendment is as follows:

AMENDMENT NO. 2560

(Purpose: To require that earmarks for for-profit entities be subject to full and open competition)

At the appropriate place, insert the following:

SEC. _____. Any specific project contained in the Joint Explanatory statement accompanying this Act that is considered a congressional earmark for purposes of clause 9 of rule XXI of the Rules of the House of Representatives or a congressionally directed spending item as defined in rule XLIV of the Standing Rules of the Senate, when intended to be awarded to a for-profit entity, shall be awarded under full and open competition.

Mr. MCCAIN. I ask for a voice vote on this amendment.

Mr. COCHRAN. Mr. President, I urge the Senate to oppose amendment No. 2560 offered by the Senator from Arizona.

This amendment would require all congressionally directed spending items to be competed but would allow items requested by the President to be executed with limited or no competition.

In practice, this amendment would create separate acquisition criteria for items funded in the bill. It does not allow for traditional exceptions to the competitive process for such programs as small business set-asides, socially and disadvantaged firms, or women-owned businesses.

I urge my colleagues to vote "no" on the McCain amendment.

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. INOUE. Mr. President, the McCain amendment purports to save tax dollars by requiring competition for earmarks for all businesses. However, it should be noted that if this amendment passes, small businesses would have to be competed against the big companies; women businesses will have to be competed; business by small Indian companies, Native Americans, will have to be competed, and disabled veterans. We have a choice here.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2560) was rejected.

AMENDMENT NO. 2583

The PRESIDING OFFICER. The next amendment is amendment No. 2583 from the Senator from Arizona.

The clerk will report.

The bill clerk read as follows:

The Senator from Arizona [Mr. McCain] proposes an amendment numbered 2583.

The amendment is as follows:

AMENDMENT NO. 2583

(Purpose: To strike funding for the MARIAH Hypersonic Wind Tunnel Development Program)

At the appropriate place, insert the following:

SEC. _____. (a) MARIAH HYPERSONIC WIND TUNNEL DEVELOPMENT PROGRAM.—The amount appropriated by title IV under the heading "RESEARCH, DEVELOPMENT, TEST, AND EVALUATION, ARMY" is hereby reduced by \$9,500,000, with the amount of the reduction to be allocated to amounts available for the MARIAH Hypersonic Wind Tunnel Development Program.

Mr. MCCAIN. Mr. President, this would strike an unrequested \$9.5 million earmark for a hypersonic wind tunnel research project called MARIAH. It is up to now some \$90 million has been spent; nothing to show for it.

It is an Army program and here is what the Army says:

There are no current operational requirements for a hypersonic missile program within the Army. No Army missions currently require flight technologies. The Army does not have the need for a hypersonic wind tunnel.

It is hard to be more clear than that. So let's have the pork barrelers vote for it again.

The PRESIDING OFFICER. The Senator from Montana.

Mr. TESTER. Mr. President, the Air Force Material Command said last year that:

Hypersonic military and commercial flight vehicles, including space asset vehicles, global research, and missile defense systems, are envisioned future needs.

We are talking about the future, we are not talking about the past. The United States lacks capability to adequately test hypersonic propulsion. The MARIAH Project will fix that gap in research and development.

Russia, China, and others are aggressively developing a new type of missile that is believed to be too fast for the U.S. missile defense. India and Russia have a joint venture engaged in laboratory testing of supersonic cruise missiles capable of speeds beyond Mach V.

The fact is, folks, we need to look at the future. We need to look at what is going to happen in the next 5 or 10 years. MARIAH is about seeing a potential threat to our national defense that is on the horizon and finding a way to defeat it.

I would encourage you to vote against the McCain amendment. It is vital to our national security to defeat this amendment.

The PRESIDING OFFICER. All time is yielded back. The question is on agreeing to the amendment.

Mr. KYL. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a subject second.

The clerk will call the roll.

The bill clerk called the roll.

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

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

The result was announced—yeas 43, nays 55, as follows:

[Rollcall Vote No. 314 Leg.]

YEAS—43

Alexander	DeMint	McCain
Barrasso	Ensign	McCaskill
Bayh	Enzi	McConnell
Bennett	Feingold	Murkowski
Bond	Graham	Risch
Brownback	Grassley	Roberts
Bunning	Gregg	Sessions
Burr	Hatch	Shelby
Chambliss	Hutchison	Snowe
Coburn	Inhofe	Thune
Cochran	Isakson	Vitter
Collins	Johanns	Voinovich
Corker	Kyl	Wicker
Cornyn	LeMieux	
Crapo	Lugar	

NAYS—55

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

NOT VOTING—2

Byrd	Specter
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The amendment (No. 2583) was rejected.

Mr. COCHRAN. Mr. President, I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 2616, AS MODIFIED

The PRESIDING OFFICER. We will now proceed to 2 minutes equally divided on the Lieberman amendment, No. 2616, as modified.

The Senator from Connecticut.

Mr. LIEBERMAN. Mr. President, on behalf of my cosponsor, Senator SESSIONS, I want to speak briefly on the amendment, and then we will withdraw our request for a rollcall. The chairman and ranking member have agreed to accept the amendment on a voice vote.

To put this as simplistically and briefly as I can, as we all know, the administration has decided to terminate the ground-based midcourse ballistic missile defense system that was to go in Poland and the Czech Republic and substitute for it the so-called SM-3 system, an alternative system, to provide defense from missiles that are of short and medium range that would be fired from Iran, to protect our allies in Europe and the Middle East. Senator SESSIONS and I have been concerned that in

doing so, we have put ourselves in a position where we do not have the guarantee of an adequate defense for that day and the next decade when Iran will have completed its development of a long-range missile, an intercontinental ballistic missile that it could fire at the United States.

The PRESIDING OFFICER (Mr. UDALL of Colorado). The time of the Senator has expired.

Mr. LIEBERMAN. Mr. President, you were too happy telling me that. I ask unanimous consent for an additional 30 seconds.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. LIEBERMAN. I thank the Chair.

Bottom line, we have developed a ground-based interceptor that was to go in Poland. We have it. It is ready to be tested. The alternative the administration is proposing to give the United States of America, our homeland, protection from a missile fired from Iran is basically on paper. If it is fully developed, it will give us protection.

But Senator SESSIONS and I offer this amendment to make sure we set money aside so we continue to test the ground-based interceptor as a hedge against a failure of this alternative system, to be ready to protect the United States of America. That is why we offer this amendment, why I thank the leadership of the committee for being willing to accept it, and why I hope it will remain in conference when the bill returns to the Senate.

I thank the Chair.

Mr. HATCH. Mr. President, today I rise in strong support of Senator LIEBERMAN's and Senator SESSIONS' amendment No. 2616 which will provide \$151 million for the research and development of the two-stage ground-based interceptor missile.

I have always believed in having a plan B. Throughout my life I have learned the colloquial wisdom found in the saying "do not put all your eggs in one basket" has great merit.

In fact, in its most simplistic form, our Nation's strategic deterrent has been based upon the principle that you always need a backup plan. Specifically, for over 45 years our Nation's ultimate security guarantee for ourselves and our allies has been our Nation's nuclear triad composed of intercontinental ballistic missiles, bombers and submarine-launched intercontinental ballistic missiles. The idea was simple: If one leg of our defense system was knocked out or somehow rendered inoperable, the two other legs would maintain a more than credible deterrent.

Times have changed. But the continuing need for the triad was recently reaffirmed by Dr. James Schlesinger who was one of the principal members of the recently published final report of the Congressional Commission on the Strategic Posture of the United States.

However, the events of September 11 only underscored a new threat phe-

nomena that is referred to in military circles as the asymmetric threat. Simply put, an asymmetric threat is the tactics which are used by our new adversaries, such as terrorists and rogue regimes, to counterbalance our Nation's traditional strengths in conventional warfare. The example which is seared in the mind of each American was the hijacking and crashing of civilian airliners on September 11.

Asymmetric threats are not just limited to terrorist activity and those nations which support it. It is also found in those nations which are developing ever more sophisticated ballistic missiles and even the ultimate weapon, the nuclear bomb.

But the asymmetric threat that I wish to discuss today is Iran's ballistic missile program. Though the President argues the Iranians are a decade away from deploying an intercontinental ballistic missile, this was not what our military experts were telling us just a few months ago. Specifically, the Air Force's National Air and Space Intelligence Center published an unclassified version of its Ballistic and Cruise Missile Threat report in April 2009—just 5 months ago—that "Iran has an ambitious ballistic missile and space launch development programs and, with sufficient foreign assistance, Iran could develop and test an Intercontinental Ballistic Missile capable of reaching the United States by 2015."

The report goes on to say "in late 2008 and early 2009 it launched the Safir, a multi-stage space launch vehicle, that can serve as a test bed for long-range ballistic missile technologies. The [Iranian] 2009 test successfully placed a satellite in orbit."

These conclusions are supported by the testimony of General Craddock, who while still Commander of U.S. European Command stated this March that "Iran already possesses ballistic missiles that can reach parts of Europe and is developing missiles that can reach most of Europe . . . By 2015 Iran may also deploy an Intercontinental Ballistic Missile capable of reaching all of Europe and parts of the U.S."

These are serious assessments and no doubt the President has good reason to believe the threat has changed and therefore made the decision to drop plans to deploy our ground-based mid-course interceptor, called GBI, to Europe. However, I am also mindful of the point the distinguished Senator from Connecticut made when he introduced his amendment. He astutely reminded the Senate that in 1998 the North Koreans tested their long range Taepodong missile just 7 days after our intelligence community concluded that North Korea was 3 years away from having that capability.

Which brings us back to the question: should we have a plan B?

We did until 2 weeks ago.

That plan B was to deploy a European-based GBI system to intercept intercontinental ballistic missiles fired from the Middle East at the United

States and our European allies. According to the Bush administration this system was scheduled to be completed by 2013—2 years before our intelligence estimates, until recently, believed Iran would have an intercontinental ballistic missile.

However, under the new strategy, which relies on the continued development of the SM-3 missile, we and our allies must wait until 2018 to have a similar capability as planned by the previous administration and offered by the GBI in 2013. We also must remember the 2018 SM-3 deployment date can only be reached if everything goes according to plan—an all too rare occurrence in modern weapons development.

Not much of a plan B when one remembers that Iran has received extensive outside assistance in developing their ballistic missiles. For example, the National Intelligence Center concluded the Iranian Shahab-3, which has a range of 1,200 miles is based on the North Korean No Dong missile. In addition, Anthony Cordesman and Martin Kleiber in their 2007 book titled "Iran's Military Forces and Warfighting Capabilities" wrote that as early as October 1997 "Russia began training Iranian engineers on missile production for the Shahab-3." The authors also pointed out that allegations have been made that various Chinese companies had assisted in Shahab-3s final development.

This, of course, begs the question what other outside assistance could the Iranians receive which could speed their development of an intercontinental ballistic missile?

That is why Senator LIEBERMAN and Senator SESSIONS' amendment is so important. It provides us with a plan B. It continues the deployment of a two-stage GBI. This is not a pie-in-the-sky plan. Our Nation has already deployed a three-stage GBI in Alaska and California and until 10 months ago the Department of Defense believed the two-stage system could be deployed by 2013.

Therefore, I urge my colleagues to support the Lieberman-Sessions amendment to provide funding for a plan B which could provide us with capabilities to intercept Middle East ICBMs launched against our interests and allies years before the President's plan.

The PRESIDING OFFICER. Who yields time in opposition?

If all time is yielded back, the question is on agreeing to the amendment, as modified.

The amendment (No. 2616), as modified, was agreed to.

Mr. COCHRAN. Mr. President, I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Hawaii.

AMENDMENT NO. 2605

Mr. INOUE. Mr. President, I ask unanimous consent that amendment No. 2605 be called up.

The PRESIDING OFFICER. Without objection, the clerk will report.

The bill clerk read as follows:

The Senator from Hawaii [Mr. INOUE], for Mr. BINGAMAN, for himself and Mr. UDALL of New Mexico, proposes an amendment numbered 2605.

Mr. INOUE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To make available from Research, Development, Test, and Evaluation, Air Force, \$5,000,000 to carry out evaluations and analyses of certain laser systems)

At the appropriate place, insert the following:

SEC. _____. (a) AMOUNT FOR EVALUATIONS OF CERTAIN LASER SYSTEMS.—Of the amount appropriated or otherwise made available by title IV under the heading “RESEARCH, DEVELOPMENT, TEST AND EVALUATION, AIR FORCE” and available for Advanced Weapons Technology (PE# 0603605F), up to \$5,000,000 may be available to carry out the evaluations and analyses required by subsection (b).

(b) EVALUATIONS AND ANALYSES OF CERTAIN LASER SYSTEMS.—The Secretary of Defense shall, in a manner consistent with the October 8, 2008, report of the Air Force Scientific Advisory Board entitled “Airborne Tactical Laser (ATL) Feasibility for Gunship Operations”—

(1) carry out additional enhanced user evaluations of the Advanced Tactical Laser system on a variety of instrumented targets; and

(2) enter into an agreement with a federally funded research and development center under which the center shall—

(A) conduct an analysis of the feasibility of integrating solid state laser systems onto C-130, B-1, and F-35 aircraft platforms to provide close air support; and

(B) estimate the cost per unit of such laser systems and the cost of operating and maintaining each such platform with such laser systems.

Mr. INOUE. Mr. President, this amendment has been cleared by both sides. I ask unanimous consent that the amendment be agreed to.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 2605) was agreed to.

HMMWV FUNDING

Mr. DURBIN. Mr. President, I wish to engage my colleague, Senator INOUE, the chairman of the Appropriations Committee, in a colloquy.

I would first like to thank Senator INOUE and Senator COCHRAN for their hard work in developing the fiscal year 2010 Department of Defense appropriations bill.

As the chairman knows, the budget amendment submitted by the White House in August 2009 reduced the proposed spending for high mobility multipurpose wheeled vehicle, HMMWV, from the initial request level by \$375 million, leaving less than \$1.2 billion in the program in fiscal year 2010. This year's reduction is in addition to a \$162 million reduction taken in the fiscal year 2009 supplemental appropriations bill.

HMMWVs provide enhanced protection for our troops and are much more mobile and versatile than older models of the vehicle. There are still extensive requirements for HMMWVs throughout all the Services because the vehicle operates as a platform for numerous systems that perform multiple missions.

The National Guard still has a majority of the older HMMWVs that cannot meet current military, homeland security, or State disaster missions. Recently, the Adjutants General reported that by fiscal year 2011, 63 percent of their HMMWV fleet will be over 20 years old.

These critical military vehicles also provide high-paying manufacturing jobs in the heart of the Midwest. The HMMWV supports over 1,600 suppliers across 40 States—the majority of which are located in Illinois, Indiana, Ohio, and Michigan. These are skilled automotive workers and suppliers that have faced serious job losses over the last 2 years.

I am concerned that repeated funding reductions could erode the manufacturing base for this critical military vehicle and adversely affect our country's manufacturing capacity.

I would encourage the chairman to closely consider this situation as we move to a conference committee with the House.

Mr. INOUE. I fully understand the Senator's concerns and support funding to meet our Nation's requirements for the HMMWV fleet. The HMMWV has proven its value over the years deployed in combat, in training at home and in homeland defense missions. I can assure you that we will carefully consider these factors as the fiscal year 2010 bill is completed.

Mr. FEINGOLD. Mr. President, I would like to address the growing interest in the Army's recent contract award to the Oshkosh Corporation for the family of medium tactical vehicles, which is currently being reviewed by the Government Accountability Office, GAO. A number of my colleagues in Congress have expressed their concern about the contract. They have registered their concern and desire for greater oversight on the floor of the Senate, as well as with the Department of Defense and GAO.

I have long called for greater congressional oversight of the defense acquisitions process. Our acquisitions process is broken and costs are spiraling out of control. This has undermined our ability to provide the equipment our troops need when they need it. We must have full and fair competition in order to contain costs and ensure proper performance of defense contractors. To this end, I was a strong supporter of enacting the Weapons Systems Acquisition Reform Act earlier this year.

However, I am concerned about the manner and timing of my colleagues' statements on this issue. The GAO is currently conducting an independent review of the contract. Congress should

not be doing anything to foreclose or prejudice the GAO process, which would both undermine the GAO's independence and set a bad precedent for future protests. I am afraid that some of the public statements that have been made during the ongoing review, as well as letters to the GAO, may exceed Congress' proper role and could have the effect of undermining GAO's independence.

I, for one, am delighted that a company in my home State with a strong track record of providing vehicles to the military was awarded the contract. Wisconsinites take justifiable pride in the high-quality trucks and other products that Oshkosh Corporation designs and builds. I understand that some Members of Congress would have preferred a different outcome, and I respect that. But we must all recognize that the needs of the men and women of our armed services come first. The Armed Forces are best equipped to make decisions about their acquisition needs, as they have the expertise and experience needed to make decisions about the equipment needs of our troops. We should not try to substitute our judgments for those of experts in our military and at the GAO. I strongly urge my colleagues to refrain from passing judgment on the contract until we all have the opportunity to review the GAO's expert analysis. There should not be any room for politics in the acquisition process—our goal is to get the best product for the taxpayers' dollars.

Mr. DODD. Mr. President, I would like to take a moment to discuss a very important amendment that was adopted by the Senate. This amendment, which I was proud to cosponsor, expresses the sense of the Senate that the joint surveillance target attack radar system, known as Joint STARS, is one of the most effective and heavily tasked intelligence, surveillance, and reconnaissance assets in our Air Force. These aircraft provide critical imagery of tens of thousands of square miles to our troops every day, helping to protect the lives of our troops who are protecting our country so bravely overseas.

The Joint STARS fleet, although only 17 aircraft in size, has demonstrated immeasurable success in Iraq and Afghanistan. So far, they have flown over 55,000 combat hours, tracking the location and movement of enemy troops and discovering hundreds of improvised explosive devices. These aircraft consistently provide our troops on the ground with critical intelligence that helps them prepare for their missions in enemy territory.

The Joint STARS fleet has been protecting our troops for decades, and with that service has incurred expected wear and tear. With no aircraft being designed to replace them, it is absolutely critical that we provide the military with the funds they need to keep up with their heavy deployment cycles. These aircraft are in dire need

of new engines, which are now more than 40 years old. Failure to do so will cost the taxpayer billions of dollars in maintenance and operating costs. According to Air Force estimates, however, replacing the engines will pay for itself within 8 years. This is the only sensible solution.

Workers in Norwalk, CT, have been working on the radar for this aircraft for years. This unique technology provides overall images of the battle space, ensuring our troops receive the most complete and accurate intelligence possible, from camouflaged insurgent camps and enemy vehicles to incoming cruise missiles. It is an incredible product which lends itself to some of the most industrious and dedicated workers in the field. There are hundreds of workers across the country like those in Norwalk that labor day in and day out to ensure that the Joint STARS fleet is able to continue to protect our brave men and women in uniform.

Our troops cannot afford a lapse in the critical surveillance capability provided by our Joint STARS fleet. Our warfighters depend on this cutting edge technology every day, and we must ensure that we do not deny our troops the intelligence they need to successfully and safely execute their missions overseas.

Mr. REID. Mr. President, I rise in support of the passage of H.R. 3326, the fiscal year 2010 Defense appropriations bill.

The legislation before us will fund critical priorities in the Department of Defense designed to protect our Nation from current threats and develop cutting-edge warfighting technologies for the future. It will provide the essential resources, equipment, and support for the nearly 200,000 military servicemembers now serving in Iraq and Afghanistan. And it will fund more than \$89 million in projects to create jobs in Nevada and help support Nevada's role in keeping our country safe.

During the course of the Senate's debate on this bill, we considered an amendment relating to U.S. operations in Afghanistan. The Obama administration is currently in the midst of an extremely important examination of our strategy in Afghanistan.

Getting that strategy right is critical. To make sure we have the right strategy, the President has rightly undertaken consultation with a wide range of military, civilian, and intelligence community officials, as well as with Members of Congress.

The amendment we considered was an attempt to cut off those discussions, to force the President's hand. This amendment was the wrong approach at the wrong time.

Right now, there are hundreds of servicemembers and civilians from my home State of Nevada serving courageously in Afghanistan. Many of these troops have been serving in the military since the 9-11 terrorist attacks on our country.

These troops have, in many cases, been deployed overseas three, four, and sometimes even five times. That means 3, 4, or more years that they have been taken away from their families and loved ones during the last 8 years.

Many of them have missed the births of their children, or their babies' first steps. Many have been pulled away from their civilian jobs, and have taken significant pay cuts. And, unfortunately, many troops in Nevada and throughout the Nation have made the ultimate sacrifice in service to our mission in Afghanistan.

We owe these troops a rigorous and deliberative debate on the proper strategy in Afghanistan. We owe it to them to make sure we have examined every possible option so that we give them the best chance to win and to stay out of harm's way. To rush this process is to undercut the President's effort to protect to accomplish these objectives.

Unfortunately, a number of Senators have sought to do just that. They have called for military commanders to begin testifying about our strategy in Afghanistan before that strategy is set by the Commander in Chief. That approach is a blatant attempt to force the President's hand, to circumvent the rigorous, deliberative review that a decision of this magnitude demands. It would short-circuit the administration's review of our Afghanistan strategy, and it would cut many important voices out of the picture. Our troops and our national security cannot afford such a rash step.

Now, I agree that GEN Stanley McChrystal, Commander of U.S. Forces in Afghanistan, should testify to Congress about our strategy in Afghanistan. But, as his counterpart, GEN David Petraeus, did when this Chamber was debating our strategy in Iraq, I think it is appropriate for that testimony to occur after his Commander in Chief has arrived at a decision.

In the last several days, I have had the opportunity to meet with Secretary of Defense Robert Gates and GEN Jim Jones, the President's National Security Adviser, to discuss the questions now facing us on Afghanistan. Today, I had the opportunity, along with several of my colleagues, to have a similar discussion with the President.

All three of these officials have made it clear that they are in the midst of a vigorous, healthy discussion in which military commanders, including General Petraeus and General McChrystal, have key seats at the table. They are working through a disciplined and deliberate process in which they will determine a strategy that will best advance the security interests of the United States and then determine the appropriate resources to allocate in implementing that strategy.

Talking about changes in troop levels or other resources before we have worked out the right strategy simply puts the cart before the horse. Now is not the time for such an irresponsible

approach. Now is the time for all the best minds on the administration's national security team to take a hard look at our policy in Afghanistan, free from politics and other interference, and make sure we get it right.

As we move forward in this debate, my foremost priority will be to ensure that, no matter what the strategy, the brave servicemembers from Nevada and across America who are serving in Afghanistan have the support and resources they need to succeed in their mission. I am confident that the bill before us today takes an important step toward that goal, and I urge my colleagues to support it.

The PRESIDING OFFICER. Under the previous order, the committee-reported substitute, as amended, is agreed to and the motion to reconsider is considered made and laid upon the table.

The question is on the engrossment of the committee amendment in the nature of a substitute, as amended, and third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill pass?

Mr. COCHRAN. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The clerk will call the roll.

The result was announced—yeas 93, nays 7, as follows:

[Rollcall Vote No. 315 Leg.]

YEAS—93

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

NAYS—7

Barrasso	Enzi	McCain
Coburn	Feingold	
DeMint	Graham	

The bill (H.R. 3326), as amended, was passed.

(The bill will be printed in a future edition of the RECORD.)

Mr. INOUE. Mr. President, I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Under the previous order, the Senate insists on its amendments, requests a conference with the House on the disagreeing votes of the two Houses, and the Chair is authorized to appoint the following conferees on the part of the Senate:

The Presiding Officer appointed Mr. INOUE, Mr. BYRD, Mr. LEAHY, Mr. HARKIN, Mr. DORGAN, Mr. DURBIN, Mrs. FEINSTEIN, Ms. MIKULSKI, Mr. KOHL, Mrs. MURRAY, Mr. SPECTER, Mr. COCHRAN, Mr. BOND, Mr. MCCONNELL, Mr. SHELBY, Mr. GREGG, Mrs. HUTCHISON, Mr. BENNETT, and Mr. BROWNBACK, conferees on the part of the Senate.

The PRESIDING OFFICER. The Senator from Hawaii.

MORNING BUSINESS

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

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

DELAWARE ARMY NATIONAL GUARD

Mr. KAUFMAN. Mr. President, I rise today to welcome home the Delaware Army National Guard's 261st Tactical Signal Brigade from Iraq. Just over 1 year ago, on October 2, 2008, 110 brave citizen soldiers left behind their families in the great State of Delaware to serve their country with honor in Iraq. Nearly 1 year later, on September 30, 2009, all 110 members of the 261st returned to Dover Air Force Base to be reunited with their families.

I am extremely grateful that each member of the 261st has returned safely to Delaware, and I offer them my deep gratitude, respect, and admiration for their service. I know I speak for all Delawareans when I say just how proud I am of their contributions in Iraq.

Under the leadership of the Delaware National Guard Adjutant General, MAJ Frank Vavala, the 261st trained for 1 year to prepare for their deployment. Under the command of BG Scott Chambers they served with distinction at Camp Victory in Baghdad. I had the privilege of visiting the 261st in April and then again in September during my two visits to Iraq. I was enormously proud to see the tremendous work they were doing, and I was honored to spend time with these inspiring men and women from Delaware during my trip.

While in Iraq, the 261st played a critical role as the first National Guard

unit to maintain and administer the communications network. They also ran the Baghdad Signal University which trained Iraqi nationals in communication skills. During each visit, I was impressed by the professionalism and the commitment of the members of the 261st. There is no question that their unique skill set and unwavering commitment greatly contributed to the U.S. mission in Iraq.

As we see progress in infrastructure and security in Iraq, it is due in no small part to the efforts of the Delaware National Guard. The 261st worked tirelessly to share their expertise and knowledge with their Iraqi counterparts, expanding the Iraqi capacity to manage their own communications networks and systems. The families of the Guard can rest assured knowing that despite their great sacrifice over the past year and the difficulties they faced in being separated from their loved ones, the 261st left Iraq a better place because of their service.

The volunteers of the 261st are part of a proud and historic Delaware tradition. For decades, the 261st has served its country with great honor and distinction. Since 1924, it has deployed in times of need, first, as a part of the Delaware National Guard 261st Coast Artillery Battalion. The 261st was activated again on January 27, 1941, to participate in coastal defense operations during World War II. Since then, the mission of the 261st has evolved from defending the homeland to a broader global mission, such as that in Iraq, where it played a vital role in building communication networks and engaging in information operations.

We are truly fortunate as a nation to have so many dedicated volunteers willing to serve on the front lines defending our interests at home and abroad, and I am especially grateful to the 261st for their courageous service.

As we welcome this unit home from Delaware, we also send our prayers for the safe return of all of those serving our Nation in Afghanistan and Iraq.

Mr. President, I yield the floor.

VOTE EXPLANATION

Mr. UDALL of Colorado. Mr. President, due to family-related reasons, I was unable to cast a vote for rollcall vote No. 306, the nomination of Thomas Perez to be Assistant Attorney General, Civil Rights Division, Department of Justice. Had I been present, I would have voted "yea" to confirm the nominee.

SOUTHGATE VOLUNTEER FIRE DEPARTMENT CELEBRATES ITS CENTENNIAL

Mr. MCCONNELL. Mr. President, I would like to congratulate the Southgate Volunteer Fire Department for celebrating its centennial this October. Over the past century, the Southgate Volunteer Fire Department has been comprised of numerous men

and women who have dedicated their lives to serving their community.

The record of excellence at Southgate Volunteer Fire Department has made all the difference in reaching this glorious milestone in its history. This year the department won its fourth State Fire Olympics; the State Fire Olympics hosts five different events that test the skills of firefighters and explorer teams. The extensive 3,000 hours spent per year on training has no doubt aided in the achievements made by the department. The Southgate Volunteer Fire Department became one of the first in Campbell County to develop life squads, and it has also been recognized as one of the first in Kentucky to carry semiautomatic external defibrillators.

The strength and dedication of the department was tested at the Beverly Hills Supper Club Fire in May of 1977, surely the most difficult day in its 100-year history. The Southgate Volunteer Fire Department was at the forefront of that firefighting effort and was aided by another 500 firefighters from throughout Kentucky, Indiana, and Ohio. There were 3,800 people rescued from the fire that night, all because of the valor and dedication shown by these heroes.

The department's current chief, John Beatch, manages 75 members of the Southgate Volunteer Fire Department, and in 2004 and 2005 the Southgate Volunteer Fire Department boasted the induction of two previous chiefs into the Firefighters Hall of Fame. Early in 2000, with aid from the State, the department received a new administration office, sleeping quarters, new dress and work uniforms, and two new semiautomatic external defibrillators.

The foundation of excellence that began 100 years ago still stands as the volunteers of this brave department have dedicated their lives to protecting their community. I am confident that tradition will continue on for the next 100 years as the Southgate Volunteer Fire Department continues to keep the people of Kentucky safe. I know all of my colleagues join me in congratulating the men and women of the Southgate Volunteer Fire Department for their service and their heroism.

HONORING OUR ARMED FORCES

CAPTAIN BENJAMIN SKLAVER

Mr. DODD. Mr. President, it is with a heavy heart that I rise today to honor the memory of U.S. Army Reserve CAPT Benjamin Sklaver, who was killed on October 2, when his patrol came under attack in Muscheh, Afghanistan. He was 32 years old.

Captain Sklaver personified the values and qualities of a U.S. Army officer, and dedicated himself to improving his country and helping those most in need, both in uniform and as a private citizen. As a U.S. Army captain, Benjamin Sklaver distinguished himself as a capable and talented leader; and as an employee of the CDC and

FEMA Captain Sklaver used his skills to help Americans prepare for and recover from disaster.

Perhaps the most inspiring chapter of his life came after a 2007 deployment to the Horn of Africa, where Captain Sklaver saw how hard it was for rural Ugandan villagers to obtain clean drinking water. Upon his return to the United States, Sklaver helped found the ClearWater Initiative to help bring access to clean water to war torn regions. In just 2 short years, Captain Sklaver's Initiative provided access to clean, potable water to over 6,500 people in Africa, where his charity work earned him the nickname "Moses Ben."

Guided by a deep sense of patriotism and the Jewish principle of Tikkun Olam, or fixing the world, Captain Sklaver touched the lives of thousands, and his contributions to his country and to those he helped around the world will not soon be forgotten.

All of us owe a deep debt of gratitude to Captain Sklaver and his family. I extend my deepest condolences to Captain Sklaver's parents Gary and Laura, his brother Samuel, his sister Anna, his fiancé Beth Segaloff, and to all those who knew and loved him.

SPECIALIST JUSTIN PELLERIN

Mrs. SHAHEEN. Mr. President, I wish to express my sympathy over the loss of U.S. Army SPC Justin Pellerin, a 21-year-old resident of Concord, NH. Specialist Pellerin was killed while conducting combat operations in Wardak Province, Afghanistan, on August 20, 2009.

Specialist Pellerin was a 2006 graduate of Concord High School. It was there that he met Chelsea, his high school sweetheart, whom he would later marry. The two had just celebrated their 1-year anniversary and were looking forward to Justin returning home in December. His family and friends remember him for his sharp sense of humor, his selflessness, and his love of American muscle cars.

Justin joined the Army because he wanted to make a difference in the world. For his distinguished service, he has been awarded the Bronze Star, the Purple Heart, the Good Conduct Medal and the National Defense Service Medal. He, and the thousands of brave men and women of the U.S. Armed Forces, represent the best in America's long tradition of duty, sacrifice, and service.

In addition to his wife Chelsea, Specialist Pellerin is survived by his mother Melissa; stepfather Dale Farmer; and two younger sisters Molly and Hannah. He will be missed dearly by all those who knew him.

I ask my colleagues to join me and all Americans in honoring the life of SPC Justin Pellerin.

SERGEANT MICHAEL C. ROY

Mr. President, I wish to express my sympathy over the loss of U.S. Marine SGT Michael C. Roy, a 25-year-old native of Manchester, NH. Sergeant Roy was killed while conducting combat op-

erations in Nimroz province, Afghanistan on July 8, 2009.

Sergeant Roy was born in Manchester and grew up in nearby Candia before moving with his family to Florida. He served two tours of duty in Iraq prior to his deployment to Afghanistan as a member of the 3rd Marine Special Operations Battalion based out of Camp Lejeune, NC.

According to his family, Sergeant Roy loved being a marine. He joined the service at the age of 18 and often shared his stories of the Corps with his siblings. He was also a devoted husband and the loving father of three young children.

No words can diminish the loss of this devoted husband and father, but I hope Sergeant Roy's family will take solace in the deep gratitude and appreciation all Americans share in honoring his service to our country. He, and the thousands of brave men and women of the U.S. Armed Forces serving today, deserve America's highest honor and recognition.

In addition to his wife Amy and their children Olivia, Michael, and Landon, Sergeant Roy is survived by his father Michael and his mother Lisa Hickey. He will be missed dearly by all those who knew him.

I ask my colleagues to join me and all Americans in honoring the life of SGT Michael C. Roy.

RECOGNIZING ACT, INC.

Mr. GRASSLEY. Mr. President, I come before the Senate today to commemorate the 50th anniversary of an Iowa educational organization that has become a household word for Americans entering postsecondary education or the workforce, and which has gained a solid international reputation as well, ACT, Inc. Over those 50 years, this organization has grown to be one of the most significant gateways between secondary education and postsecondary education or the workplace. I would like to describe some of the work this institution has done that has made such an important contribution to American education.

ACT was founded in 1959 at a meeting in Iowa's old State capitol on the campus of the University of Iowa. It was launched as the "American College Testing Program" by a University of Iowa professor of education, the University of Iowa's registrar, and representatives of 16 Midwestern States. Their goal was to help all students who wanted to attend college find a good match for their interests and abilities, and to help colleges and universities place students into appropriate freshmen-level classes. On November 7, 1959, about 75,000 students took the first ACT assessment. By comparison, in the high school graduating class of 2009, nearly 1.5 million students, or 45 percent of all high school graduates in the Nation, took the ACT.

ACT now conducts extensive research designed to help provide solutions to

the complex education problems facing the country. For example, they have developed a college and career readiness system for students beginning in middle school and continuing through postsecondary education. This system helps students stay on target to be ready to succeed in college or workforce training programs when they graduate high school, without the need for remedial classes, and monitors their success in postsecondary education once they leave high school.

ACT is also involved in researching solutions to the Nation's workforce challenges. For example, ACT developed the National Career Readiness Certificate to confirm that individuals have essential core employability skills. ACT is one of several partners in a new manufacturing skills certification system designed by the National Association of Manufacturers, the Nation's largest industrial trade organization.

Furthermore, ACT is helping build bridges between the United States and many other nations to help them improve their education and workforce systems, and to help people in other nations learn the English language. For example, through local partners, ACT conducts a 9-month pre-university program in 13 countries, including China, Korea, Indonesia, Fiji, Australia, New Zealand, Canada, Mexico, and countries in South America. There are more than 30 teaching centers in China. This program prepares students to study in English-language universities in the United States and elsewhere. This contributes to our country's standing in the world. As a nation, we benefit from foreign talent, as students from other nations come to study in U.S. colleges and universities. Individuals who return to their home countries in turn go back with a greater understanding of Americans and our way of life.

I offer my congratulations to the over 1,000 Iowa residents employed with ACT, its directors, and other members of its State organizations on their 50-year history of helping people achieve education and workplace success. I look forward to following their accomplishments for many years to come.

TRIBUTE TO DRS. WILLARD S. BOYLE AND GEORGE E. SMITH

Mr. MENENDEZ. Mr. President, I rise to extend my deepest congratulations to Drs. Willard S. Boyle and George E. Smith—two New Jersey scientists who have been awarded the Nobel Prize in Physics, an incredible honor for extraordinary ingenuity in their chosen field and fitting recognition for their outstanding achievement.

They have expanded the boundaries of science, inventing something most of us do not understand, but which has made a difference in our lives. The invention of the charged-coupled device,

or CCD, now found in digital cameras used around the world and by NASA on the ground-breaking Hubble Telescope, revolutionized how we take photographs and manipulate and transfer images. It has given us insight into the deepest reaches of space, allowed us to see remarkable images that have made us better understand the vastness and magnificence of the universe, and better appreciate the simple images in our family photographs.

Dr. Boyle and Dr. Smith have done their work at Bell Laboratories in Murray Hill, NJ, and now have enriched our State's proud tradition of scientific breakthrough and innovation. We can add their names to those of Albert Einstein, who made Princeton his base, and Thomas Edison, who from his Garden State lab invented the incandescent light bulb that lit the world. The names of Boyle and Smith will now loom large in the scientific history of our State. They have made New Jersey and the United States very proud.

Their contribution to science is in their remarkable discovery, but their legacy to mankind is in their pioneering spirit, their ingenuity, and their quest to look further, think harder, and discover what no one else could.

I join with my colleagues and with every American in thanking them for making our lives better and wish them the very best as they continue careers that brought them to this place, having earned a Nobel Prize almost 40 years to the day after they began their long scientific journey.

To Dr. Boyle and Dr. Smith, we offer the best wishes of a grateful Nation.

125TH ANNIVERSARY OF THE U.S. NAVAL WAR COLLEGE

Mr. REED. Mr. President, today I recognize the 125th anniversary of the U.S. Naval War College. The Naval War College was established on October 6, 1884, in Newport, RI, to provide an advanced course of professional study for both military officers and civilians. The mission has evolved over the years to include developing strategic and operational leaders, helping the Chief of Naval Operations define the future Navy, strengthening maritime security cooperation, and supporting combat readiness.

The Naval War College serves as a center for research that develops advanced strategic, warfighting, and campaign concepts for future deployment of maritime, joint, and combined forces. The Naval War College works closely with the Navy Warfare Development Command and the Chief of Naval Operations Strategic Studies Group in developing and analyzing national security issues. Through the Naval Command College and the Naval Staff College, naval officers from around the world come to prepare for high command responsibilities, and to learn about the U.S. Navy's methods, practice, and doctrine. The Naval War College also supports combat readiness

among the U.S. Navy's commanders through operational planning, analysis, and war-gaming to respond to changing operational environments.

Some of our Nation's greatest military and civilian leaders have attended the Naval War College including FADM Chester Nimitz, the Commander of the Pacific Fleet during World War II; RADM Alan Shepard, the first American in space; Ambassador Christopher Hill, the current U.S. Ambassador to Iraq; and Marine Corps GEN James Cartwright, the current Vice Chairman of the Joint Chiefs of Staff. Indeed, even our two combatant commanders in Afghanistan and Iraq, GEN Stanley McChrystal and GEN Raymond Odierno, are both graduates of the Naval War College.

I am proud of the talented men and women who have made the Naval War College the strong institution it is today, and I congratulate the entire Naval War College community on this important milestone.

ADDITIONAL STATEMENTS

RECOGNIZING THE SIMPSON COUNTY HISTORICAL SOCIETY

• Mr. BUNNING. Mr. President, I wish to honor the Simpson County Historical Society on their 50th anniversary. This is a momentous occasion for their organization and for the residents of South Central Kentucky.

The society was founded in 1959 by 37 dedicated citizens who wished to preserve the historical treasures in the area. The society began by meeting in a private home, and soon the group acquired a small collection of books that were maintained at the local library.

As the society expanded, its leaders were able to persuade the government of Simpson County to provide the old jail and jailer's house as the permanent facility of the society. This decision led to the creation of the Simpson County Archives and Museum that now holds thousands of books, city and county records, and other historical materials of significant value. The society has also continued the upkeep of the old jail and jailer's house, which date from the early 1800s.

However, the Simpson County Historical Society has not simply collected and preserved documents. They have also been active in encouraging the study of local history and culture. The society has provided scholarships for students wishing to pursue the study of history and maintained numerous historical markers in Simpson County. Finally, the group has positively impacted the economy by supporting tourist visits to historic sites throughout Kentucky.

I am very proud of the service the Simpson County Historical Society has provided to the Commonwealth of Kentucky. Their dedication through these many years makes them one of the oldest historical societies in the State,

and I am confident that their impact will continue for many years to come.●

TRIBUTE TO DR. MICHAEL POSNER

• Mr. MERKLEY. Mr. President, today I wish to honor Dr. Michael Posner, Professor Emeritus, Department of Psychology, Institute of Cognitive and Decision Sciences at the University of Oregon. Dr. Michael Posner is one of nine scientists awarded the prestigious National Medal of Science award this year by President Barack Obama.

Dr. Posner received both his bachelor's degree in physics and his master's degree in psychology from the University of Washington in Seattle. In 1962, he received his doctorate in psychology from the University of Michigan. Dr. Posner joined the University of Oregon in 1965 and ever since has inspired students and impressed colleagues.

Dr. Posner is a pioneer in the field of cognitive science and neuroscience and has won numerous awards. His groundbreaking research on brain development and how the brain processes thought have been recognized by numerous organizations such as the American Psychological Association and the National Academy of Sciences.

Dr. Posner has dedicated his career to researching how the brain functions and most recently, on attentional networks in children and infants. He has made invaluable contributions to our medical, educational, and scientific communities. I am proud that Dr. Posner's groundbreaking work at the University of Oregon is helping put our State at the forefront of developing innovative medical and scientific research.

I encourage my fellow Oregonians to join me in celebrating the innovative spirit of Dr. Posner and the entire University of Oregon faculty for their cutting-edge scientific research. Generations of Americans are in debt to Dr. Posner for his breakthroughs that have improved their lives. This recognition for his lifetime of achievement is well-earned. I hope that his example can inspire our State and our Nation to renew our commitment to education and academic research.●

MESSAGES FROM THE PRESIDENT

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

EXECUTIVE MESSAGES REFERRED

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

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

MESSAGE FROM THE HOUSE

ENROLLED BILLS SIGNED

At 2:18 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the Speaker has signed the following enrolled bills:

H.R. 1687. An act to designate the federally occupied building located at McKinley Avenue and Third Street, SW., Canton, Ohio, as the "Ralph Regula Federal Building and United States Courthouse".

H.R. 2053. An act to designate the United States courthouse located at 525 Magoffin Avenue in El Paso, Texas, as the "Albert Armendariz, Sr., United States Courthouse".

H.R. 2121. An act to authorize the Administrator of General Services to convey a parcel of real property in Galveston, Texas, to the Galveston Historical Foundation.

H.R. 2498. An act to designate the Federal building located at 844 North Rush Street in Chicago, Illinois, as the "William O. Lipinski Federal Building".

H.R. 2913. An act to designate the United States courthouse located at 301 Simonton Street in Key West, Florida, as the "Sidney M. Aronovitz United States Courthouse".

S. 1289. An act to improve title 18 of the United States Code.

MEASURES PLACED ON THE CALENDAR

The following bill was read the second time, and placed on the calendar:

S. 1751. A bill to prohibit the Federal Government from awarding contracts, grants, or other agreements to, providing any other Federal funds to, or engaging in activities that promote the Association of Community Organizations for Reform Now or any other entity which has been indicted for or convicted of violations of laws governing election administration or campaign financing.

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. BOXER (for herself, Mr. MERKLEY, Mr. LIEBERMAN, and Mr. BAYH):

S. 1754. A bill to amend the Internal Revenue Code of 1986 to provide for a standard home office deduction in the case of certain uses of the office; to the Committee on Finance.

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

S. 1755. A bill to direct the Department of Homeland Security to undertake a study on emergency communications; to the Committee on Homeland Security and Governmental Affairs.

By Mr. HARKIN (for himself, Mr. LEAHY, Mr. DURBIN, Mr. SPECTER, Mr. KOHL, Mr. SCHUMER, Mr. FRANKEN, Mr. SANDERS, Mr. BROWN, Mr. CARDIN, Mr. MERKLEY, Mrs. FEINSTEIN, Mr. DODD, Mrs. BOXER, Mr. LAUTENBERG, Mr. KAUFMAN, and Mr. NELSON of Florida):

S. 1756. A bill to amend the Age Discrimination in Employment Act of 1967 to clarify the appropriate standard of proof; to the Committee on Health, Education, Labor, and Pensions.

By Mr. BENNETT:

S. 1757. A bill to provide for the prepayment of a repayment contract between the

United States and the Uintah Water Conservancy District, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. BENNETT (for himself and Mr. HATCH):

S. 1758. A bill to provide for the allocation of costs to project power with respect to power development within the Diamond Fork System, and for other purposes; to the Committee on Energy and Natural Resources.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

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

By Mr. WYDEN (for himself and Mr. MERKLEY):

S. Res. 303. A resolution expressing the sense of the Senate that October 17, 1984, the date of the restoration by the Federal Government of Federal recognition to the Confederated Tribes of Coos, Lower Umpqua, and Siuslaw Indians, should be memorialized; to the Committee on Indian Affairs.

By Mr. INOUE (for himself and Mr. AKAKA):

S. Res. 304. A resolution commemorating the canonization of Father Damien de Veuster, SS.CC. to sainthood; considered and agreed to.

By Mrs. FEINSTEIN (for herself, Mr. KERRY, and Mr. LUGAR):

S. Res. 305. A resolution expressing support for the victims of the natural disasters in Indonesia, Samoa, American Samoa, Tonga, Vietnam, Cambodia, and the Philippines; considered and agreed to.

By Mr. REED (for himself, Ms. COLLINS, Mr. KERRY, Mr. CARDIN, Mr. WHITEHOUSE, Mr. DODD, Mr. COCHRAN, Mr. ISAKSON, Mr. BROWN, Mr. NELSON of Nebraska, Mrs. BOXER, and Mr. JOHANNES):

S. Res. 306. A resolution designating the week of October 18 through October 24, 2009, as "National Childhood Lead Poisoning Prevention Week"; considered and agreed to.

By Mr. SPECTER (for himself, Mr. CASEY, Mr. NELSON of Florida, Ms. KLOBUCHAR, Mr. FRANKEN, Mrs. BOXER, and Mrs. FEINSTEIN):

S. Con. Res. 45. A concurrent resolution encouraging the Government of Iran to allow Joshua Fattal, Shane Bauer, and Sarah Shourd to reunite with their families in the United States as soon as possible; considered and agreed to.

ADDITIONAL COSPONSORS

S. 144

At the request of Mr. KERRY, the name of the Senator from Oregon (Mr. MERKLEY) was added as a cosponsor of S. 144, a bill to amend the Internal Revenue Code of 1986 to remove cell phones from listed property under section 280F.

S. 169

At the request of Mr. ISAKSON, the name of the Senator from Wisconsin (Mr. FEINGOLD) was added as a cosponsor of S. 169, a bill to provide for a biennial budget process and a biennial appropriations process and to enhance oversight and the performance of the Federal Government.

S. 213

At the request of Mrs. BOXER, the name of the Senator from Louisiana

(Ms. LANDRIEU) was added as a cosponsor of S. 213, a bill to amend title 49, United States Code, to ensure air passengers have access to necessary services while on a grounded air carrier, and for other purposes.

S. 257

At the request of Mr. WHITEHOUSE, the name of the Senator from Minnesota (Mr. FRANKEN) was added as a cosponsor of S. 257, a bill to amend title 11, United States Code, to disallow certain claims resulting from high cost credit debts, and for other purposes.

S. 332

At the request of Mrs. FEINSTEIN, the name of the Senator from New York (Mr. SCHUMER) was added as a cosponsor of S. 332, a bill to establish a comprehensive interagency response to reduce lung cancer mortality in a timely manner.

S. 451

At the request of Ms. COLLINS, the names of the Senator from Oregon (Mr. MERKLEY) and the Senator from Arkansas (Mr. PRYOR) were added as cosponsors of S. 451, a bill to require the Secretary of the Treasury to mint coins in commemoration of the centennial of the establishment of the Girl Scouts of the United States of America.

S. 473

At the request of Mr. DURBIN, the name of the Senator from South Carolina (Mr. GRAHAM) was added as a cosponsor of S. 473, a bill to establish the Senator Paul Simon Study Abroad Foundation.

S. 575

At the request of Mr. CARPER, the names of the Senator from Florida (Mr. NELSON) and the Senator from Colorado (Mr. BENNETT) were added as cosponsors of S. 575, a bill to amend title 49, United States Code, to develop plans and targets for States and metropolitan planning organizations to develop plans to reduce greenhouse gas emissions from the transportation sector, and for other purposes.

S. 831

At the request of Mr. KERRY, the names of the Senator from Illinois (Mr. DURBIN) and the Senator from Minnesota (Mr. FRANKEN) were added as cosponsors of S. 831, a bill to amend title 10, United States Code, to include service after September 11, 2001, as service qualifying for the determination of a reduced eligibility age for receipt of non-regular service retired pay.

S. 883

At the request of Mr. KERRY, the name of the Senator from Tennessee (Mr. ALEXANDER) was added as a cosponsor of S. 883, a bill to require the Secretary of the Treasury to mint coins in recognition and celebration of the establishment of the Medal of Honor in 1861, America's highest award for valor in action against an enemy force which can be bestowed upon an individual serving in the Armed Services of the United States, to honor the American military men and women

who have been recipients of the Medal of Honor, and to promote awareness of what the Medal of Honor represents and how ordinary Americans, through courage, sacrifice, selfless service and patriotism, can challenge fate and change the course of history.

S. 1065

At the request of Mr. CASEY, the name of the Senator from Wisconsin (Mr. FEINGOLD) was added as a cosponsor of S. 1065, a bill to authorize State and local governments to direct divestiture from, and prevent investment in, companies with investments of \$20,000, 000 or more in Iran's energy sector, and for other purposes.

At the request of Mr. BROWNBACK, the name of the Senator from New York (Mr. SCHUMER) was added as a cosponsor of S. 1065, *supra*.

S. 1301

At the request of Mr. MENENDEZ, the name of the Senator from Pennsylvania (Mr. SPECTER) was added as a cosponsor of S. 1301, a bill to direct the Attorney General to make an annual grant to the A Child Is Missing Alert and Recovery Center to assist law enforcement agencies in the rapid recovery of missing children, and for other purposes.

S. 1348

At the request of Mr. CHAMBLISS, the name of the Senator from South Carolina (Mr. GRAHAM) was added as a cosponsor of S. 1348, a bill to recognize the heritage of hunting and provide opportunities for continued hunting on Federal public land.

S. 1545

At the request of Mrs. GILLIBRAND, the name of the Senator from New Jersey (Mr. LAUTENBERG) was added as a cosponsor of S. 1545, a bill to expand the research and awareness activities of the National Institute of Arthritis and Musculoskeletal and Skin Diseases and the Centers for Disease Control and Prevention with respect to scleroderma, and for other purposes.

S. 1652

At the request of Mr. HARKIN, the name of the Senator from Minnesota (Mr. FRANKEN) was added as a cosponsor of S. 1652, a bill to amend part B of the Individuals with Disabilities Education Act to provide full Federal funding of such part.

S. 1655

At the request of Mr. NELSON of Nebraska, the name of the Senator from Connecticut (Mr. DODD) was added as a cosponsor of S. 1655, a bill to authorize the Secretary of Education to award grants for the support of full-service community schools, and for other purposes.

S. 1660

At the request of Mrs. KLOBUCHAR, the name of the Senator from Montana (Mr. TESTER) was added as a cosponsor of S. 1660, a bill to amend the Toxic Substances Control Act to reduce the emissions of formaldehyde from composite wood products, and for other purposes.

S. 1672

At the request of Mr. REED, the name of the Senator from Vermont (Mr. SANDERS) was added as a cosponsor of S. 1672, a bill to reauthorize the National Oilheat Research Alliance Act of 2000.

S. 1678

At the request of Mr. CARDIN, the names of the Senator from Oregon (Mr. MERKLEY) and the Senator from Nebraska (Mr. JOHANNIS) were added as cosponsors of S. 1678, a bill to amend the Internal Revenue Code of 1986 to extend the first-time homebuyer tax credit, and for other purposes.

S. 1682

At the request of Ms. CANTWELL, the name of the Senator from California (Mrs. FEINSTEIN) was added as a cosponsor of S. 1682, a bill to provide the Commodity Futures Trading Commission with clear antimarket manipulation authority, and for other purposes.

S. 1683

At the request of Mr. BENNET, the name of the Senator from Wisconsin (Mr. FEINGOLD) was added as a cosponsor of S. 1683, a bill to apply recaptured taxpayer investments toward reducing the national debt.

S. 1700

At the request of Mr. LUGAR, the name of the Senator from Vermont (Mr. LEAHY) was added as a cosponsor of S. 1700, a bill to require certain issuers to disclose payments to foreign governments for the commercial development of oil, natural gas, and minerals, to express the sense of Congress that the President should disclose any payment relating to the commercial development of oil, natural gas, and minerals on Federal land, and for other purposes.

S. 1709

At the request of Ms. STABENOW, the name of the Senator from North Dakota (Mr. CONRAD) was added as a cosponsor of S. 1709, a bill to amend the National Agricultural Research, Extension, and Teaching Policy Act of 1977 to establish a grant program to promote efforts to develop, implement, and sustain veterinary services, and for other purposes.

S. 1710

At the request of Mr. VITTER, the names of the Senator from Georgia (Mr. ISAKSON), the Senator from Texas (Mr. CORNYN), the Senator from Kentucky (Mr. BUNNING), the Senator from Nevada (Mr. ENSIGN), the Senator from South Carolina (Mr. DEMINT), the Senator from Iowa (Mr. GRASSLEY), the Senator from South Dakota (Mr. THUNE), the Senator from Idaho (Mr. CRAPO), the Senator from Oklahoma (Mr. INHOFE), the Senator from Georgia (Mr. CHAMBLISS), the Senator from Kentucky (Mr. MCCONNELL), the Senator from Ohio (Mr. VOINOVICH), the Senator from Alabama (Mr. SESSIONS), the Senator from Tennessee (Mr. ALEXANDER), the Senator from Oklahoma (Mr. COBURN), the Senator from Tennessee (Mr. CORKER), the Senator from

Mississippi (Mr. WICKER), the Senator from Idaho (Mr. RISCH) and the Senator from Nebraska (Mr. JOHANNIS) were added as cosponsors of S. 1710, a bill to prohibit recipients of TARP assistance from funding ACORN, and for other purposes.

S. 1749

At the request of Mr. FEINGOLD, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. 1749, a bill to amend title 18, United States Code, to prohibit the possession or use of cell phones and similar wireless devices by Federal prisoners.

S. RES. 263

At the request of Mr. GRASSLEY, the name of the Senator from Montana (Mr. BAUCUS) was added as a cosponsor of S. Res. 263, a resolution designating October 2009 as "National Medicine Abuse Awareness Month".

AMENDMENT NO. 2570

At the request of Mrs. FEINSTEIN, the names of the Senator from West Virginia (Mr. BYRD), the Senator from Maryland (Mr. CARDIN), the Senator from Pennsylvania (Mr. CASEY), the Senator from Illinois (Mr. DURBIN), the Senator from Wisconsin (Mr. FEINGOLD), the Senator from South Dakota (Mr. JOHNSON), the Senator from Vermont (Mr. SANDERS) and the Senator from Rhode Island (Mr. WHITEHOUSE) were added as cosponsors of amendment No. 2570 intended to be proposed to H.R. 3326, a bill making appropriations for the Department of Defense for the fiscal year ending September 30, 2010, and for other purposes.

AMENDMENT NO. 2588

At the request of Mr. FRANKEN, the names of the Senator from Maryland (Mr. CARDIN), the Senator from Minnesota (Ms. KLOBUCHAR), the Senator from Massachusetts (Mr. KERRY), the Senator from Oregon (Mr. MERKLEY), the Senator from Florida (Mr. NELSON), the Senator from California (Mrs. FEINSTEIN), the Senator from Ohio (Mr. BROWN) and the Senator from New Hampshire (Mrs. SHAHEEN) were added as cosponsors of amendment No. 2588 proposed to H.R. 3326, a bill making appropriations for the Department of Defense for the fiscal year ending September 30, 2010, and for other purposes.

AMENDMENT NO. 2594

At the request of Mr. SHELBY, the name of the Senator from Utah (Mr. HATCH) was added as a cosponsor of amendment No. 2594 proposed to H.R. 3326, a bill making appropriations for the Department of Defense for the fiscal year ending September 30, 2010, and for other purposes.

AMENDMENT NO. 2596

At the request of Mr. BOND, the names of the Senator from Florida (Mr. LEMIEUX) and the Senator from Utah (Mr. HATCH) were added as cosponsors of amendment No. 2596 proposed to H.R. 3326, a bill making appropriations for the Department of Defense for the fiscal year ending September 30, 2010, and for other purposes.

AMENDMENT NO. 2616

At the request of Mr. LIEBERMAN, the names of the Senator from Utah (Mr. HATCH) and the Senator from Alaska (Mr. BEGICH) were added as cosponsors of amendment No. 2616 proposed to H.R. 3326, a bill making appropriations for the Department of Defense for the fiscal year ending September 30, 2010, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. HARKIN (for himself, Mr. LEAHY, Mr. DURBIN, Mr. SPECTER, Mr. KOHL, Mr. SCHUMER, Mr. FRANKEN, Mr. SANDERS, Mr. BROWN, Mr. CARDIN, Mr. MERKLEY, Mrs. FEINSTEIN, Mr. DODD, Mrs. BOXER, Mr. LAUTENBERG, Mr. KAUFMAN, and Mr. NELSON of Florida):

S. 1756. A bill to amend the Age Discrimination in Employment Act of 1967 to clarify the appropriate standard of proof; to the Committee on Health, Education, Labor, and Pensions.

Mr. LEAHY. Mr. President, today, I am pleased to join Senator HARKIN and other Senators to introduce the Protecting Older Workers Against Discrimination Act. This legislation overturns the Supreme Court's recent decision in *Gross v. FBL Financial Services*, a divided case that thwarted congressional intent, overturned well-established precedent, and delivered a major blow to the ability of older workers to fight age discrimination. This bill restores the intent of Congress to fully empower older workers to seek redress in the courts, and to root out discrimination in the workplace.

I thank Senator HARKIN for introducing this bill, and I commend him for his commitment and dedication over the years to ensure that the promise of equal opportunity is real for all Americans. We worked hard last year to enact into law the ADA Amendments Act, which clarified and expanded protections for Americans with disabilities. I am proud to once again join as an original cosponsor of legislation that will do the same for older workers. I am also pleased that Congressman GEORGE MILLER will introduce a companion bill in the House today as well.

This Nation was founded on the promise of equal rights and equal opportunity for all Americans. To fulfill this promise, Congress has enacted a full slate of civil rights laws to eliminate discrimination in society, including the workplace. In 1967, Congress passed the Age Discrimination and Employment Act, ADEA, with the intent to extend protections against workplace discrimination to older workers. We strengthened those protections in the Civil Rights Act of 1991, which the Senate passed by a vote of 93 to 5.

Last month, Senators from both sides of the aisle joined together to celebrate the life and accomplishments of

Senator Ted Kennedy, whose legacy includes authoring and shepherding these civil rights measures into law. As Senator Kennedy said, "It has long been clear that effective enforcement of civil rights and fair labor practices is possible only if individuals themselves are able to seek relief in court."

However, contrary to the intent of Congress, the Supreme Court's decision in *Gross* will make it more difficult for older workers victimized by age discrimination to seek relief in court, and more difficult for those victims who actually get their day in court to vindicate their rights.

In passing the ADEA, Congress aimed to eliminate all forms of age discrimination in the workplace. Consistent with this goal, courts have for decades interpreted the ADEA to lessen the burdens on older workers victimized by discrimination. Victims of age discrimination were only required to show that age was a "motivating factor" for an employer's adverse action, though other factors may have also motivated a company's firing or termination of an employee.

In *Gross*, however, the Supreme Court misinterpreted the intent of Congress and ignored the longstanding precedent in a way that resulted in weakening core civil rights protections for older workers. In a 5-4 decision, a majority of the Court concluded that under the ADEA an employee must now prove that age was the sole cause of an employer's adverse action. As a result, despite our intent to provide the same protections for older workers in the ADEA as we provided for racial minorities in Title VII of the Civil Rights Act of 1964, today older workers now have less protection against workplace discrimination.

I am concerned that the *Gross* decision will allow employers to discriminate on the basis of age with impunity as long as it is paired with other reasons. Older workers, who make up nearly 50 percent of the American workforce, are particularly vulnerable to suffering discrimination during difficult economic times. In fact, age discrimination complaints filed with the Equal Employment Opportunity Commission jumped nearly 30 percent between 2007 and 2008. I fear that in the wake of *Gross* few, if any, of these victims will attain justice.

The Protecting Older Workers Against Discrimination Act, which is modeled on the Civil Rights Act of 1991, would reverse the *Gross* decision, strengthen the safeguards of the ADEA, and restore fundamental fairness. The bill eliminates the high burden of proof that victims of age discrimination must meet after *Gross*. It clarifies that the standard for proving discrimination under the ADEA and other anti-discrimination and anti-retaliation laws is the same as the standard for proving race discrimination under Title VII. The bill makes clear that when a litigant shows that age was a motivating factor for an adverse

employment action, the burden is on the employer to prove it complied with the law. This bill restores the law to what it was for decades before the Court rewrote the rule.

The bill also ensures that all workers will be treated equally in the workplace. Today, some lower courts have already applied *Gross* to weaken the protections in other anti-discrimination statutes. The legislation clarifies that the "motivating factor" standard applies to all anti-discrimination and anti-retaliation laws, and reflects a broader commitment to address the needs of all persons who suffer discrimination. It reaffirms that Americans' rights will be honored. It also restores the faith of the public that our civil rights laws are just and fair. Those are timeless American values that we can all embrace.

We have drafted this measure after long and thoughtful consideration with the Leadership Conference on Civil Rights, a broad coalition of hundreds of civil rights and workers' rights organizations. The bill also has the support of AARP, the National Senior Citizens Law Center, the National Women's Law Center and the National Employment Lawyers Association. Their support gives me confidence that this legislation will improve the lives of all Americans.

Time has shown that the ADEA has been one of our Nation's most effective tools in combating discrimination. Its continued effectiveness is important to ensure that the great progress we have made in widening the doors of opportunity for all Americans continues in the future. The Protecting Older Workers Against Discrimination Act will restore vital protections that have long secured the promise of equal rights and equal opportunity for older workers. I hope all Senators will support passing this critical civil rights measure this year.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 303—EX-PRESSING THE SENSE OF THE SENATE THAT OCTOBER 17, 1984, THE DATE OF THE RESTORATION BY THE FEDERAL GOVERNMENT OF FEDERAL RECOGNITION TO THE CONFEDERATED TRIBES OF COOS, LOWER UMPQUA, AND SIUSLAW INDIANS, SHOULD BE MEMORIALIZED

Mr. WYDEN (for himself and Mr. MERKLEY) submitted the following resolution; which was referred to the Committee on Indian Affairs:

S. RES. 303

Whereas the Coos, Lower Umpqua, and Siuslaw Restoration Act (25 U.S.C. 714 et seq.), which was signed by President Ronald Reagan on October 17, 1984, restored Federal recognition to the Confederated Tribes of Coos, Lower Umpqua, and Siuslaw Indians;

Whereas the Confederated Tribes of Coos, Lower Umpqua, and Siuslaw Indians historically inhabited land now in the State of Oregon, from Fivemile Point in the south to

Tenmile Creek in the north, west to the Pacific Ocean, then east to the crest of the Coast Range, encompassing the watersheds of the Coos River, the Umpqua River to Weatherly Creek, the Siuslaw River, the coastal tributaries between Tenmile Creek and Fivemile Point, and portions of the Coquille watershed;

Whereas in addition to restoring Federal recognition, the Coos, Lower Umpqua, and Siuslaw Restoration Act and other Federal Indian statutes have provided the means for the Confederated Tribes to achieve the goals of cultural restoration, economic self-sufficiency, and the attainment of a standard of living equivalent to that enjoyed by other citizens of the United States;

Whereas by enacting the Coos, Lower Umpqua, and Siuslaw Restoration Act, the Federal Government declared that the Confederated Tribes of Coos, Lower Umpqua, and Siuslaw Indians were eligible for all Federal services and benefits provided to federally recognized tribes, provided the means to establish a tribal reservation, and granted the Confederated Tribes self-government for the betterment of tribal members, including the ability to set tribal rolls;

Whereas the Confederated Tribes of Coos, Lower Umpqua, and Siuslaw Indians have embraced Federal recognition and self-sufficiency statutes and are actively working to better the lives of tribal members; and

Whereas economic self-sufficiency, which was the goal of restoring Federal recognition for the Confederated Tribes of Coos, Lower Umpqua, and Siuslaw Indians, is being realized through many projects: Now, therefore, be it

Resolved, That it is the sense of the Senate that October 17, 1984, should be memorialized as the date on which the Federal Government restored Federal recognition to the Confederated Tribes of Coos, Lower Umpqua, and Siuslaw Indians.

SENATE RESOLUTION 304—COMMEMORATING THE CANONIZATION OF FATHER DAMIEN DE VEUSTER, SS.CC. TO SAINTHOOD

Mr. INOUE (for himself and Mr. AKAKA) submitted the following resolution; which was considered and agreed to:

S. RES. 304

Whereas Father Damien de Veuster, SS.CC. was born Joseph de Veuster in Tremelo, Belgium, on January 3, 1840, and in 1859, at age 19, he entered the Congregation of the Sacred Hearts of Jesus and Mary in Louvain and selected Damien as his religious name;

Whereas in 1863, Father Damien received permission to replace his ill brother, and sailed to the Hawaiian Islands to perform missionary work;

Whereas Father Damien arrived in Honolulu, Hawaii on March 19, 1864, was ordained to the priesthood at the Cathedral of Our Lady of Peace on May 21, 1864, and began his pastoral ministry on the island of Hawaii;

Whereas the Hawaiian Government deported individuals infected with Hansen's disease, also known as leprosy, to a peninsula on the island of Molokai, to prevent further spread of the disease, and Bishop Louis Maigret, SS.CC. sought the help of Father Damien and other priests to provide spiritual assistance for the sufferers of Hansen's disease;

Whereas several priests volunteered to work on Molokai for a few months, but Father Damien requested to remain permanently with the individuals suffering from Hansen's disease, and was among the first to leave for the island of Molokai on May 10, 1873;

Whereas for 16 years, Father Damien served as a voice of hope and a source of consolation and encouragement for the individuals afflicted with Hansen's disease, accomplishing remarkable achievements, including building houses and hospitals, taking care of the patients' spiritual and physical needs, building 6 chapels, constructing a home for boys and a home for girls, and burying the hundreds who died during his years on the island of Molokai;

Whereas Father Damien died on April 15, 1889, after contracting Hansen's disease, and his remains were transferred to Belgium in 1936, where he was interred in the crypt of the church of the Congregation of the Sacred Hearts at Louvain;

Whereas in 1938, the process for beatification for Father Damien was introduced at Malines, Belgium;

Whereas on April 15, 1969, a statue of Father Damien and a statue of King Kamehameha I, gifts from the State of Hawaii, were unveiled at the Capitol Rotunda;

Whereas on July 7, 1977, Pope Paul VI declared Father Damien "venerable", the first of 3 steps that lead to sainthood;

Whereas on June 4, 1995, Pope John Paul II declared Father Damien "Blessed Damien", and his feast is on May 10, the day Father Damien first entered the island of Molokai; and

Whereas Father Damien will be canonized a saint on October 11, 2009, by Pope Benedict XVI: Now, therefore, be it

Resolved, That the Senate—

(1) recognizes the canonization of Father Damien to sainthood; and

(2) honors and praises Father Damien for his legacy, work, and service to the Hansen's disease colony on the island of Molokai.

SENATE RESOLUTION 305—EXPRESSING SUPPORT FOR THE VICTIMS OF THE NATURAL DISASTERS IN INDONESIA, SAMOA, AMERICAN SAMOA, TONGA, VIETNAM, CAMBODIA, AND THE PHILIPPINES

Mrs. FEINSTEIN (for herself, Mr. KERRY, and Mr. LUGAR) submitted the following resolution; which was considered and agreed to:

S. RES. 305

Whereas on September 30, 2009, an earthquake measuring 7.6 on the Richter Scale hit Padang, a city of nearly 1,000,000 people on the Indonesian island of Sumatra;

Whereas on October 1, 2009, another earthquake measuring 6.6 on the Richter Scale struck south of Padang;

Whereas the earthquakes have destroyed hundreds of homes, businesses, schools, hospitals, and hotels;

Whereas John Holmes, the United Nations Under-Secretary-General and Emergency Relief Coordinator, has estimated that more than 1,100 people have lost their lives due to the earthquakes;

Whereas the United States has responded to this tragedy by providing \$300,000 in aid, sending a disaster relief team to the area, and setting aside an additional \$3,000,000 in assistance;

Whereas on September 29, 2009, following an earthquake measuring 8.3 on the Richter Scale, a tsunami hit Samoa, American Samoa, and Tonga, killing 177 people and affecting approximately 30,000 people;

Whereas the United States has sent a 245-member disaster response team to American Samoa, as well as 20,000 meals, 13,000 liters of water, and 800 tents that have been provided by the Federal Emergency Management Agency;

Whereas on September 26, 2009, Typhoon Ketsana hit Manila, Philippines, resulting in the worst flooding in 4 decades and leaving the homes of approximately 2,000,000 people under water;

Whereas approximately 700,000 people in the Philippines have sought shelter in emergency relief centers;

Whereas 246 people have died as a result of the flooding, with the number of dead expected to rise;

Whereas the Government of the Philippines has estimated that the typhoon has caused at least \$100,000,000 in damage;

Whereas on September 29, 2009, Typhoon Ketsana hit Vietnam, killing more than 100 people, damaging more than 170,000 homes and forcing 350,000 people to evacuate, and resulting in approximately \$168,000,000 in damage; and

Whereas 11 lives were lost in Cambodia due to Typhoon Ketsana: Now, therefore, be it

Resolved, That the Senate—

(1) mourns the loss of life resulting from the earthquakes in Indonesia, the tsunami in Samoa, American Samoa, and Tonga, and Typhoon Ketsana in the Philippines, Vietnam, and Cambodia;

(2) expresses its deepest condolences to the families of the victims of these tragedies;

(3) expresses its sympathies to the survivors who are still suffering in the aftermath of these natural disasters;

(4) supports the efforts already provided by the United States Government, relief agencies, and private citizens; and

(5) urges the United States Government and the international community to provide additional humanitarian assistance to aid the survivors of these natural disasters and support reconstruction efforts.

SENATE RESOLUTION 306—DESIGNATING THE WEEK OF OCTOBER 18 THROUGH OCTOBER 24, 2009, AS "NATIONAL CHILDHOOD LEAD POISONING PREVENTION WEEK"

Mr. REED (for himself, Ms. COLLINS, Mr. KERRY, Mr. CARDIN, Mr. WHITEHOUSE, Mr. DODD, Mr. COCHRAN, Mr. ISAKSON, Mr. BROWN, Mr. NELSON of Nebraska, Mrs. BOXER, and Mr. JOHANNES) submitted the following resolution; which was considered and agreed to:

S. RES. 306

Whereas lead poisoning is one of the leading environmental health hazards facing children in the United States;

Whereas approximately 240,000 children in the United States under the age of 6 have harmful levels of lead in their blood;

Whereas lead poisoning may cause serious, long-term harm to children, including reduced intelligence and attention span, behavior problems, learning disabilities, and impaired growth;

Whereas children from low-income families are significantly more likely to be poisoned by lead than are children from high-income families;

Whereas children may be poisoned by lead in water, soil, housing, or consumable products;

Whereas children most often are poisoned in their homes through exposure to lead particles when lead-based paint deteriorates or is disturbed during home renovation and repainting; and

Whereas lead poisoning crosses all barriers of race, income, and geography: Now, therefore, be it

Resolved, That the Senate—

(1) designates the week of October 18 through October 24, 2009, as "National Childhood Lead Poisoning Prevention Week"; and

(2) calls upon the people of the United States to observe National Childhood Lead Poisoning Prevention Week with appropriate programs and activities.

SENATE CONCURRENT RESOLUTION 45—ENCOURAGING THE GOVERNMENT OF IRAN TO ALLOW JOSHUA FATTAL, SHANE BAUER, AND SARA SHOUD TO REUNITE WITH THEIR FAMILIES IN THE UNITED STATES AS SOON AS POSSIBLE

Mr. SPECTER (for himself, Mr. CASEY, Mr. NELSON of Florida, Ms. KLOBUCHAR, Mr. FRANKEN, Mrs. BOXER, and Mrs. FEINSTEIN) submitted the following concurrent resolution; which was considered and agreed to:

S. CON. RES. 45

Whereas, on July 31, 2009, officials of the Government of Iran took 3 United States citizens, Joshua Fattal, Shane Bauer, and Sarah Shourd, into custody near the Ahmed Awa region of northern Iraq, after the 3 United States citizens reportedly crossed into the territory of Iran while hiking in Iraq;

Whereas officials of the Government of Iran have confirmed that they are holding the 3 United States citizens; and

Whereas officials of the Government of Iran have allowed consular access by the Embassy of the Government of Switzerland (in its formal capacity as the representative of the interests of the United States in Iran) to the 3 young United States citizens in accordance with the Vienna Convention on Consular Relations, done at Vienna April 24, 1963; Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That Congress—

(1) encourages the Government of Iran to allow Joshua Fattal, Shane Bauer, and Sarah Shourd to communicate by telephone with their families in the United States; and

(2) encourages the Government of Iran to allow Joshua Fattal, Shane Bauer, and Sarah Shourd to reunite with their families in the United States as soon as possible.

AMENDMENTS SUBMITTED AND PROPOSED

SA 2626. Mr. MCCAIN submitted an amendment intended to be proposed by him to the bill H.R. 2847, making appropriations for the Departments of Commerce and Justice, and Science, and Related Agencies for the fiscal year ending September 30, 2010, and for other purposes; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 2626. MR. MCCAIN submitted an amendment intended to be proposed by him to the bill H.R. 2847, making appropriations for the Departments of Commerce and Justice, and Science, and Related Agencies for the fiscal year ending September 30, 2010, and for other purposes; which was ordered to lie on the table; as follows:

On page 111, strike lines 4 through 15.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. LEAHY. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on October 6, 2009, at 9:30 a.m. to conduct a hearing entitled "Minimizing Potential Threats From Iran: Administration Perspectives on Economic Sanctions and Other U.S. Policy Options."

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

COMMITTEE ON FOREIGN RELATIONS

Mr. LEAHY. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on October 6, 2009, at 2:30 p.m., to hold a hearing entitled "Hague Convention on the International Recovery of Child Support and Other Forms of Family Maintenance (Treaty Doc. 110-21)."

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

COMMITTEE ON SMALL BUSINESS AND ENTREPRENEURSHIP

Mr. LEAHY. Mr. President, I ask unanimous consent that the Committee on Small Business and Entrepreneurship be authorized to meet during the session of the Senate on October 6, 2009, at 10 a.m., to conduct a hearing entitled "The Recovery Act for Small Businesses: What is Working and What Comes Next?"

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

SELECT COMMITTEE ON INTELLIGENCE

Mr. LEAHY. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on October 6, 2009, at 2:30 p.m.

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

SUBCOMMITTEE ON COMPETITIVENESS, INNOVATION, AND EXPORT PROMOTION

Mr. LEAHY. Mr. President, I ask unanimous consent that the Subcommittee on Competitiveness, Innovation, and Export Promotion of the Committee on Commerce, Science, and Transportation be authorized to meet during the session of the Senate on October 6, 2009, at 2:30 p.m., in room 253 of the Russell Senate Office Building.

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

SUBCOMMITTEE ON THE CONSTITUTION

Mr. LEAHY. Mr. President, I ask unanimous consent that the Committee on the Judiciary, Subcommittee on the Constitution, be authorized to meet during the session of the Senate, on October 6, 2009, at 1:30 p.m., in room SD-226 of the Dirksen Senate Office Building, to conduct a hearing entitled "Examining the History and Legality of Executive Branch Czars."

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

SUBCOMMITTEE ON HUMAN RIGHTS AND THE LAW

Mr. LEAHY. Mr. President, I ask unanimous consent that the Committee on the Judiciary, Subcommittee on Human Rights and the Law, be authorized to meet during the session of the Senate, on October 6, 2009, at 10 a.m., in room SD-226 of the Dirksen Senate Office Building, to conduct a hearing entitled "No Safe Haven: Accountability for Human Rights Violators, Part II."

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

COMMEMORATING THE CANONIZATION OF FATHER DAMIEN DE VEUSTER TO SAINTHOOD

Mr. KAUFMAN. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 304, submitted earlier today.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

A resolution (S. Res. 304) commemorating the canonization of Father Damien de Veuster, SS.CC to sainthood.

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

Mr. INOUE. Mr. President, today, I rise in support of this resolution commemorating the canonization of Father Damien de Veuster, SS.CC, to sainthood.

Joseph De Veuster, was born in Tremolo, Belgium, on January 3, 1840. At the age of 19, he entered the Congregation of the Sacred Heart of Jesus and Mary and took the religious name of Damien.

After his brother fell ill, Damien obtained permission from the Superior General to take his place for a mission in the Hawaiian Islands, although he was not yet an ordained priest. After a six-month boat ride, he arrived in Honolulu on March 19, 1864, and was ordained to the priesthood two months later.

During this time in Hawaii, an outbreak of Hansen's disease, also known as leprosy, occurred. Patients were sent away to the small island of Molokai to prevent the disease from spreading. Several priests took turns coming to Molokai to offer spiritual aid for three months at a time, but Damien chose to never leave, instead sacrificing his own life for those with Hansen's disease.

He worked tirelessly and continuously to turn this remote island into a colony of hope. He offered encouragement and spiritual guidance to those who were less able to help themselves. He built houses, chapels and hospitals and even built coffins and dug graves for those who lost the fight from Hansen's disease.

In 1884, Damien contracted Hansen's disease himself but continued working until months before dying on April 15, 1889. His remains were brought back to Belgium in 1936, and now rest in the crypt of the church of the Congregation of the Sacred Hearts at Louvain, where he first entered religious life.

On April 15, 1969, as a gift from Hawaii, a statue of Father Damien and a statue of King Kamehameha I, were unveiled at the Capitol Rotunda.

He was declared Venerable by Pope Paul VI on July 9, 1977, the first of three steps that lead to sainthood. On June 4, 1995, Pope John Paul II declared him Blessed Damien, and his feast is on May 10, the day he entered Molokai.

In observance of Father Damien de Veuster, SS.CC., I urge my colleagues to support this resolution recognizing his canonization to sainthood by Pope Benedict XVI on October 11, 2009.

Mr. President, I ask unanimous consent that Senator DANIEL AKAKA be added as a cosponsor to this Resolution.

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

Mr. AKAKA. Mr. President, I am proud to join Senator INOUE in submitting a resolution commemorating the canonization of Father Joseph Damien de Veuster. Father Damien was born in Tremelo, Belgium, on January 3, 1840. He is best known for his tireless efforts to provide material and spiritual comforts for leprosy patients at Kalaupapa, Molokai, during the latter half of the 19th century. Beloved by the people of Hawaii and the country of his birth, his selfless service to mankind serves as a model for all of us.

Father Damien arrived in Hawaii in 1864 to join the Sacred Hearts Mission in Honolulu. After several years of serving isolated communities on the island of Hawaii, Father Damien became concerned that many of his parishioners that were afflicted by leprosy were forced to separate from their families and sent to Kalaupapa, Molokai and virtually imprisoned. In 1873, Father Damien's request to reside at Molokai and devote his life to serving the people of Kalaupapa was granted.

Father Damien's selfless devotion to the patients was evident when in 1876, he told a U.S. medical inspector, "This is my work in the world. Sooner or later I shall become a leper, but may it not be until I have exhausted my capabilities for good." For 16 years, he labored to bring material and spiritual comfort to Kalaupapa's leprosy patients, building chapels, water cisterns, and boys and girls homes.

On April 15, 1889, Father Damien died of leprosy, at the age of 49. While his death was a devastating loss, the spiritual foundation that he established for the community of Kalaupapa would forever be remembered by the people of Hawaii.

Father Damien is a beloved figure in Hawaii's history, and so noteworthy are his deeds that he is one of the two people from Hawaii who are memorialized here in the Capitol, the other being King Kamehameha, the man who united the Hawaiian Islands. The statue of Father Damien stands proudly, as a reminder of his stewardship and love for Kalaupapa.

We must take every opportunity to educate our Nation on Father Damien's life and the history of Kalaupapa. Out of concern that Father Damien's legacy and Kalaupapa's rich history not be forgotten, the Kalaupapa National Historical Park was established in 1980, with a provision that former leprosy patients may remain as long as they wish.

The Holy See ruled in April 2008 that Father Joseph Damien de Veuster was responsible for two miracles and The Congregation of the Causes of Saints at the Vatican voted to recommend raising Father Damien to sainthood. In February 2009, the Vatican announced that Father Damien would be canonized on October 11, 2009 in ceremonies at the Vatican. It will be my great honor to attend those ceremonies as part of President Barack Obama's official delegation. Through this recognition, Father Damien and the 8,000 leprosy patients will forever be remembered as a legacy of human spirit and dignity.

Mr. KAUFMAN. 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, with no intervening action or debate, 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. 304) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 304

Whereas Father Damien de Veuster, SS.CC. was born Joseph de Veuster in Tremelo, Belgium, on January 3, 1840, and in 1859, at age 19, he entered the Congregation of the Sacred Hearts of Jesus and Mary in Louvain and selected Damien as his religious name;

Whereas in 1863, Father Damien received permission to replace his ill brother, and sailed to the Hawaiian Islands to perform missionary work;

Whereas Father Damien arrived in Honolulu, Hawaii on March 19, 1864, was ordained to the priesthood at the Cathedral of Our Lady of Peace on May 21, 1864, and began his pastoral ministry on the island of Hawaii;

Whereas the Hawaiian Government deported individuals infected with Hansen's disease, also known as leprosy, to a peninsula on the island of Molokai, to prevent further spread of the disease, and Bishop Louis Maigret, SS.CC. sought the help of Father Damien and other priests to provide spiritual assistance for the sufferers of Hansen's disease;

Whereas several priests volunteered to work on Molokai for a few months, but Father Damien requested to remain permanently with the individuals suffering from Hansen's disease, and was among the first to leave for the island of Molokai on May 10, 1873;

Whereas for 16 years, Father Damien served as a voice of hope and a source of consolation and encouragement for the individuals afflicted with Hansen's disease, accomplishing remarkable achievements, including building houses and hospitals, taking care of the patients' spiritual and physical needs, building 6 chapels, constructing a home for

boys and a home for girls, and burying the hundreds who died during his years on the island of Molokai;

Whereas Father Damien died on April 15, 1889, after contracting Hansen's disease, and his remains were transferred to Belgium in 1936, where he was interred in the crypt of the church of the Congregation of the Sacred Hearts at Louvain;

Whereas in 1938, the process for beatification for Father Damien was introduced at Malines, Belgium;

Whereas on April 15, 1969, a statue of Father Damien and a statue of King Kamehameha I, gifts from the State of Hawaii, were unveiled at the Capitol Rotunda;

Whereas on July 7, 1977, Pope Paul VI declared Father Damien "venerable", the first of 3 steps that lead to sainthood;

Whereas on June 4, 1995, Pope John Paul II declared Father Damien "Blessed Damien", and his feast is on May 10, the day Father Damien first entered the island of Molokai; and

Whereas Father Damien will be canonized a saint on October 11, 2009, by Pope Benedict XVI: Now, therefore, be it

Resolved, That the Senate—

(1) recognizes the canonization of Father Damien to sainthood; and

(2) honors and praises Father Damien for his legacy, work, and service to the Hansen's disease colony on the island of Molokai.

EXPRESSING SUPPORT FOR VICTIMS OF NATURAL DISASTERS

Mr. KAUFMAN. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 305, which was introduced earlier today.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

A resolution (S. Res. 305) expressing support for the victims of the natural disasters in Indonesia, Samoa, American Samoa, Tonga, Vietnam, Cambodia, and the Philippines.

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

Mr. KAUFMAN. 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, with no intervening action or debate, and that any statements relating to this measure be printed in the RECORD.

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

The resolution (S. Res. 305) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 305

Whereas on September 30, 2009, an earthquake measuring 7.6 on the Richter Scale hit Padang, a city of nearly 1,000,000 people on the Indonesian island of Sumatra;

Whereas on October 1, 2009, another earthquake measuring 6.6 on the Richter Scale struck south of Padang;

Whereas the earthquakes have destroyed hundreds of homes, businesses, schools, hospitals, and hotels;

Whereas John Holmes, the United Nations Under-Secretary-General and Emergency Relief Coordinator, has estimated that more than 1,100 people have lost their lives due to the earthquakes;

Whereas the United States has responded to this tragedy by providing \$300,000 in aid, sending a disaster relief team to the area, and setting aside an additional \$3,000,000 in assistance;

Whereas on September 29, 2009, following an earthquake measuring 8.3 on the Richter Scale, a tsunami hit Samoa, American Samoa, and Tonga, killing 177 people and affecting approximately 30,000 people;

Whereas the United States has sent a 245-member disaster response team to American Samoa, as well as 20,000 meals, 13,000 liters of water, and 800 tents that have been provided by the Federal Emergency Management Agency;

Whereas on September 26, 2009, Typhoon Ketsana hit Manila, Philippines, resulting in the worst flooding in 4 decades and leaving the homes of approximately 2,000,000 people under water;

Whereas approximately 700,000 people in the Philippines have sought shelter in emergency relief centers;

Whereas 246 people have died as a result of the flooding, with the number of dead expected to rise;

Whereas the Government of the Philippines has estimated that the typhoon has caused at least \$100,000,000 in damage;

Whereas on September 29, 2009, Typhoon Ketsana hit Vietnam, killing more than 100 people, damaging more than 170,000 homes and forcing 350,000 people to evacuate, and resulting in approximately \$168,000,000 in damage; and

Whereas 11 lives were lost in Cambodia due to Typhoon Ketsana: Now, therefore, be it

Resolved, That the Senate—

(1) mourns the loss of life resulting from the earthquakes in Indonesia, the tsunami in Samoa, American Samoa, and Tonga, and Typhoon Ketsana in the Philippines, Vietnam, and Cambodia;

(2) expresses its deepest condolences to the families of the victims of these tragedies;

(3) expresses its sympathies to the survivors who are still suffering in the aftermath of these natural disasters;

(4) supports the efforts already provided by the United States Government, relief agencies, and private citizens; and

(5) urges the United States Government and the internal community to provide additional humanitarian assistance to aid the survivors of these natural disasters and support reconstruction efforts.

NATIONAL CHILDHOOD LEAD POISONING PREVENTION WEEK

Mr. KAUFMAN. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 306, submitted earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 306) designating the week of October 18 through October 24, 2009, as “National Childhood Lead Poisoning Prevention Week.”

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

Mr. KAUFMAN. 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, with no intervening action or debate, 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. 306) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 306

Whereas lead poisoning is one of the leading environmental health hazards facing children in the United States;

Whereas approximately 240,000 children in the United States under the age of 6 have harmful levels of lead in their blood;

Whereas lead poisoning may cause serious, long-term harm to children, including reduced intelligence and attention span, behavior problems, learning disabilities, and impaired growth;

Whereas children from low-income families are significantly more likely to be poisoned by lead than are children from high-income families;

Whereas children may be poisoned by lead in water, soil, housing, or consumable products;

Whereas children most often are poisoned in their homes through exposure to lead particles when lead-based paint deteriorates or is disturbed during home renovation and repainting; and

Whereas lead poisoning crosses all barriers of race, income, and geography: Now, therefore, be it

Resolved, That the Senate—

(1) designates the week of October 18 through October 24, 2009, as “National Childhood Lead Poisoning Prevention Week”; and

(2) calls upon the people of the United States to observe National Childhood Lead Poisoning Prevention Week with appropriate programs and activities.

ENCOURAGING THE GOVERNMENT OF IRAN TO ALLOW REUNITING OF FAMILIES

Mr. KAUFMAN. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Con. Res. 45, which was submitted earlier today.

The PRESIDING OFFICER. The clerk will report the concurrent resolution by title.

The legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 45) encouraging the Government of Iran to allow Joshua Fattal, Shane Bauer, and Sarah Shourd to reunite with their families in the United States as soon as possible.

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. KAUFMAN. Mr. President, I ask unanimous consent that the concurrent resolution be agreed to, the preamble be agreed to, the motions to reconsider be laid upon the table, with no intervening action or debate, and that any statements relating to the concurrent resolution be printed in the RECORD.

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

The concurrent resolution (S. Con. Res. 45) was agreed to.

The preamble was agreed to.

The concurrent resolution, with its preamble, reads as follows:

S. CON. RES. 45

Whereas, on July 31, 2009, officials of the Government of Iran took 3 United States

citizens, Joshua Fattal, Shane Bauer, and Sarah Shourd, into custody near the Ahmed Awa region of northern Iraq, after the 3 United States citizens reportedly crossed into the territory of Iran while hiking in Iraq;

Whereas officials of the Government of Iran have confirmed that they are holding the 3 United States citizens; and

Whereas officials of the Government of Iran have allowed consular access by the Embassy of the Government of Switzerland (in its formal capacity as the representative of the interests of the United States in Iran) to the 3 young United States citizens in accordance with the Vienna Convention on Consular Relations, done at Vienna April 24, 1963: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That Congress—

(1) encourages the Government of Iran to allow Joshua Fattal, Shane Bauer, and Sarah Shourd to communicate by telephone with their families in the United States; and

(2) encourages the Government of Iran to allow Joshua Fattal, Shane Bauer, and Sarah Shourd to reunite with their families in the United States as soon as possible.

ORDERS FOR WEDNESDAY, OCTOBER 7, 2009

Mr. KAUFMAN. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand adjourned until 9:30 a.m. tomorrow, Wednesday, October 7; that following the prayer and the pledge, the Journal of proceedings be approved to date, the morning hour be deemed expired, the time for the two leaders be reserved for their use later in the day, and the Senate proceed to a period of morning business for up to 1 hour with Senators permitted to speak therein for up to 10 minutes each, with the time equally divided and controlled between the two leaders or their designees, with the majority controlling the first half and the Republicans controlling the final half; that following morning business, the Senate resume consideration of H.R. 2847, Commerce-Justice-Science appropriations.

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

PROGRAM

Mr. KAUFMAN. Mr. President, roll-call votes are expected to occur throughout the day in relation to amendments to the CJS appropriations bill and on any available conference reports, if we are able to reach an agreement on any conference reports.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. KAUFMAN. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that it stand adjourned under the previous order.

There being no objection, the Senate, at 7:34 p.m., adjourned until Wednesday, October 7, 2009, at 9:30 a.m.

NOMINATIONS

Executive nominations received by
the Senate:

DEPARTMENT OF THE TREASURY

MARY JOHN MILLER, OF MARYLAND, TO BE AN ASSIST-
ANT SECRETARY OF THE TREASURY, VICE ANTHONY W.
RYAN, RESIGNED.

MICHAEL F. MUNDACA, OF NEW YORK, TO BE AN AS-
SISTANT SECRETARY OF THE TREASURY, VICE ERIC SOL-
OMON, RESIGNED.

THE JUDICIARY

DENNY CHIN, OF NEW YORK, TO BE UNITED STATES
CIRCUIT JUDGE FOR THE SECOND CIRCUIT, VICE ROBERT
D. SACK, RETIRED.

O. ROGERIEE THOMPSON, OF RHODE ISLAND, TO BE
UNITED STATES CIRCUIT JUDGE FOR THE FIRST CIR-
CUIT, VICE BRUCE M. SELYA, RETIRED.

CONFIRMATION

Executive nomination confirmed by
the Senate, Tuesday, October 6, 2009:

DEPARTMENT OF JUSTICE

THOMAS E. PEREZ, OF MARYLAND, TO BE AN ASSIST-
ANT ATTORNEY GENERAL.