United States of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 111th CONGRESS, FIRST SESSION

Vol. 155 WASHINGTON, MONDAY, NOVEMBER 9, 2009 No. 167

House of Representatives

The House was not in session today. Its next meeting will be held on Monday, November 16, 2009, at 2 p.m.

Senate

MONDAY, NOVEMBER 9, 2009

The Senate met at 2 p.m. and was called to order by the Honorable MARK R. WARNER, a Senator from the Commonwealth of Virginia.

PRAYER

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

Let us pray.

Eternal Lord God, Creator and Sustainer of humanity, as we continue to try to understand the tragedy at Fort Hood, our hearts ache for the victims, so we turn toward You, our source of hope. We find solace in knowing that even when right seems defeated, it will ultimately triumph over evil that seems to have won.

Bless this land we love with a righteousness that provides a shield for our Nation, saving us from regrets and shame. Remind us that America's greatness resides in its goodness, for sin is a reproach to any people.

Today, enable our lawmakers to be examples of the integrity and goodness that bring stability and security, as You imbue their minds with Your vision of what we can become when we seek first to do Your will.

We pray in Your loving Name. Amen.

PLEDGE OF ALLEGIANCE

The Honorable MARK R. WARNER led the Pledge of Allegiance, as follows:

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

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

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

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, November 9, 2009.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable MARK R. WARNER, a Senator from the Commonwealth of Virginia, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

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

RECOGNITION OF THE MAJORITY LEADER

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

FORT HOOD SHOOTING

Mr. REID. Mr. President, our Nation mourns every death of an American servicemember. We grieve alongside the families who sacrifice so much while their loved ones serve and hurt even more when loved ones give the ultimate sacrifice.

I can remember the many calls I have made to Nevadans as a result of the deaths of their loved ones in Iraq and Afghanistan. They are difficult calls to make when that Nevadan does not come home.

I remember the first call. A young man, a star athlete in high school, was killed. I spoke with his coach, his friend who took care of him. That was the first. I remember the last, just a couple of days ago, a death in Afghanistan.

We are especially heartbroken by last week's tragedy that occurred deep in the heart of Texas. The entire Senate sends its deepest condolences to those who have lost mothers and fathers, sons and daughters, husbands and wives at Fort Hood. Our thoughts are with the troops who have lost their friends and fellow soldiers and those who continue to heal as I speak. These men and women died in the Soldier Readiness Processing Center. This is supposed to be the last place our troops go before they are deployed, in this instance to Afghanistan and Iraq. No one ever suspects it will be the last place they would ever go.

As we mourn, we honor the lives of those who died on that base. We hope for the full and speedy recovery of those who have been injured, and we are thankful for the men and women who came to the aid of the wounded and exhibited the kind of heroism that makes our Armed Forces the best in the world. And, of course, we are especially grateful to Kimberly Munley, who stopped the gunman.

The 13 who died at Fort Hood were from 11 different States, States that border the Atlantic, the Pacific, and the Great Lakes, States high in the Rockies and in the Great Plains. These public servants ranged in rank from private to colonel and even included an

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

Army civilian. The oldest was a husband, a father, and a grandfather from Spokane, WA. He was a civilian, a physician assistant who worked in rural clinics and veterans hospitals. He was 4 years away from his retirement. The youngest was just barely 19 years old, a private first class from northern Utah, who was just months away from deploying to Afghanistan. A 29-year-old sergeant from Wisconsin joined her Nation's military after the September 11 attacks. A 21-year-old from outside Chicago enlisted in the Army to help him afford college, where he dreamed of an education studying music. A 22-year-old specialist from Oklahoma had been married for just 2 months. A 21-year-old private first class from Chicago was 3 months pregnant. A 55-year-old lieutenant colonel was the grandmother to six. A 52-year-old major spoke very little English when he came to this country from Mexico in his teens, but he earned a Ph.D. in psychology, became a teacher, and ultimately chose to serve his country in the military. And Kimberly Munley, a woman who was shot several times. Kimberly was a sergeant and a civilian police officer. She took down the alleged shooter with her pistol, even as she suffered wounds of her own from the gunman. Yes, Fort Hood is home to truly remarkable, selfless Americans.

Our Nation misses those who were murdered, and our thoughts are with those who are now healing as a result of having been wounded in that senseless crime. The appropriate officials both inside and outside the Army will continue to investigate how such a tragedy occurred. The Senate will support them in every way we can.

In the meantime, one of the ways we can support the brave Americans who volunteer for duty is to give them the resources they need when they come home. We are trying to move forward on a package of bills that will make wounded veterans' lives a little easier. Sadly, these bills are being inexplicably held up by the minority. We have a number of very important bills that have been reported out of the Veterans' Committee, and we have not been able to move forward on them. Among other things, these bills will help veterans to get access to the caregivers they need for even the smallest task they cannot handle on their own. These bills will support veterans' mental health services and other health benefits, and they will make sure our veterans do not have to live on the streets.

Right now, a Republican Senator is singlehandedly standing in the way of these bills. Under the rules of the Senate, that is what he decided to do, but that doesn't make it right. I hope he will drop his objection so we can put our veterans' health ahead of whatever issues he is concerned about. The same Senator did this for months on a number of very important environmental bills, some lands bills. In that instance, we gathered all the bills together and put them into one bill and on a bipartisan basis got them out of here. We have done the same with these veterans bills.

These are extremely important, popular pieces of legislation, and we are going to move forward on these as quickly as we can. It would be nice if we could do them before Veterans Day, which is the day after tomorrow. I also look forward to moving ahead the Military Construction-Veterans Affairs appropriations that will fund housing for our military families, improve our bases, and support veterans programs.

Tomorrow morning when the Senate convenes, we will have a moment of silence to honor the fallen at Fort Hood. I encourage all Senators to come to the Senate at the time the Senate opens tomorrow for this most important time.

I have spoken with the Republican leader today. He is going to be as helpful as possible in making sure we move forward on this Military Construction-Veterans Affairs appropriations bill at the earliest possible time. I hope we can do it tomorrow.

SCHEDULE

Mr. REID. Mr. President, following leader remarks, the Senate will be in a period for the transaction of morning business until 3 o'clock this afternoon, with Senators permitted to speak for up 10 minutes each.

Following morning business, the Senate will resume consideration of H.R. 3082, the bill I just talked about, Military Construction. Senators are encouraged to come to the floor to offer their amendments to this legislation.

At 4:30 p.m. today, the Senate will turn to executive session to consider the nomination of Andre Davis to be U.S. circuit judge for the Fourth Circuit, with the time until 5:30 p.m. equally divided and controlled between Senator LEAHY and Senator SESSIONS or their designees. At 5:30 p.m. today, the Senate will proceed to a rollcall vote on confirmation of the nomination. We are also working on an agreement to work on other nominations, in fact, one following the 5:30 p.m. vote. We hope that can be worked out. Senators will be notified if and when any agreement is reached.

RECOGNITION OF THE MINORITY LEADER

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

FORT HOOD SHOOTING

Mr. MCCONNELL. Mr. President, I associate myself with the remarks of the majority leader with respect to the shooting, the murdering of our troops in Fort Hood last Thursday. I will have more to say about that later.

HOUSE-PASSED HEALTH CARE

Mr. MCCONNELL. Mr. President, last Saturday evening, Democratic leaders in the House passed by the narrowest of margins a massive bill with a simple goal: to vastly expand the Federal Government's role in the health care decisions of every American. This bill is strongly opposed by most Americans, which is why one out of seven Democrats voted against it. These Democrats have gotten the message that Americans are fed up with all the spending and all the debt and that they do not support a so-called health care reform that raises premiums, raises taxes, and slashes Medicare. Americans don't want a 2,000-page, trillion-dollar government experiment in health care. They want commonsense reforms that increase access and lower costs.

Soon, Senate Democrats will propose their version of a health care bill. We don't yet know all the details, but we do know that at its core, this bill would also lead to higher premiums, higher taxes, and massive cuts to Medicare to fund new government programs. This is not the reform the American people were looking for. This is not the reform they were told they could expect.

Americans feel as though they have been taken for a ride in this debate. I don't blame them. It is time we listen to the American people. At a time of double-digit unemployment and record deficits and debt, the views of ordinary Americans should not be cast aside.

20TH ANNIVERSARY OF THE FALL OF THE BERLIN WALL

Mr. MCCONNELL. Mr. President, today marks a very important day in the cause of freedom. On this day 20 years ago, the Berlin Wall, which for decades had divided the free people of West Berlin from the captive Germans in the Soviet-controlled East Berlin, finally came down.

In anticipation of this anniversary, we had the rare honor last Tuesday of hearing German Chancellor Angela Merkel address a joint meeting of Congress. She was the first German Chancellor to do so in more than 50 years. Chancellor Merkel spoke about the experience of growing up with millions of others behind the Iron Curtain. She spoke of how it was impossible for herself and anyone else she knew to travel to America. Yet even as a child she knew that tyranny was wrong and that the answer to tyranny could be found across the ocean in America.

Now decades later, Chancellor Merkel's country has gained that freedom, and a little girl who grew up under a repressive regime is the freely elected leader of a united Germany. Here is what Chancellor Merkel had to say about what made that extraordinary journey possible. She said just last week:

Twenty years have passed since we were given this incredible gift of freedom. But

there is still nothing that inspires me more, nothing that spurs me on more, nothing that fills me more with positive feelings than the power of freedom.

Chancellor Merkel also spoke very graciously of her gratitude, of Germany's gratitude to America. ''I know, we Germans know,'' she said, ''how much we owe to you, our American friends.'' She recalls President Kennedy's trip to Berlin shortly after the construction of the Berlin Wall when he declared his solidarity with the people of Germany with his famous words: ''Ich Bin ein Berliner.'' And she recalled President Reagan's 1987 trip to Berlin when he made a clear and direct appeal to the Soviet Premier for openness with the equally famous words ''Tear down this wall.''

Freedom has its own imperatives. It demanded that the Berlin Wall come down, and 20 years ago it did. It was a remarkable time. After decades of oppression, which the United States met with a sustained strategy of containment, the world witnessed the relatively peaceful liberation of a continent. But for most of us, the most remarkable moment from those days was the moment we saw one of the most potent symbols of the Communist era, the Berlin Wall, come down, piece by piece. We celebrate this great anniversary with all the free peoples of the world, mindful of those who still yearn for the same freedom Chancellor Merkel dreamed of as a young girl. May they all know the freedom that is the birthright of every man and every woman.

Mr. President, I yield the floor.

RESERVATION OF LEADER TIME

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

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. There will be a period of morning business until 3 p.m. with Senators permitted to speak therein for up to 10 minutes each.

The Senator from Connecticut.

VETERANS DAY

Mr. DODD. Mr. President, before the Republican leader leaves the floor, let me thank him for his comments about the Berlin Wall, which are very appropriate. I still have on my desk in my office in the Capitol a large piece of stone from the Berlin Wall. I was there a few weeks after the wall came down. It took a long time for it to come down. The symbol of that I look at every single day as a reminder of what all of us knew for so many years; that is, there is something terribly wrong about a system that creates a wall to keep in its people.

So I appreciate the comments on the 20th anniversary, and I think it is appropriate to recognize the great achievement that occurred 20 years ago when that wall did come down, much to the surprise of many that something like that could ever occur.

Today, Mr. President, I want to speak, if I may, for a couple of minutes and to share some brief thoughts in honor of our veterans on Veterans Day. It is a day, of course, to acknowledge the sacrifice of those who have served and those who have given their lives to secure the very liberty we enjoy as Americans.

Forty-three members of the U.S. military from my home State of Connecticut have made that ultimate sacrifice in Iraq and Afghanistan over the past several years. They are all deeply missed, and today our thoughts are with them and their families and friends. This Veterans Day, we feel an additional sense of loss in the wake of the shocking slaughter at Fort Hood last week. Our anger and bewilderment at this horrific act of violence are matched only by the sadness of the loss of these young, brave men and women. We keep the wounded and the families of the victims in our prayers and our minds.

Mr. President, we are proud to be a nation with an All-Volunteer military. No one comes to your door and tells you that you have been chosen to shoulder the burden of protecting that which we all hold dear. It is a burden welcomed by our soldiers, sailors, airmen, marines, and coastguardsmen. If all they did was to raise their hands, we would owe them a profound debt of gratitude. But for those who do volunteer, military service isn't just a patriotic obligation, it is an honor, and it is a way of life.

Our men and women in uniform fulfill their duties with unparalleled skill and pride. They represent the greatest fighting force the world has ever known, but also the finest core of infantrymen, pilots, drivers, mechanics, and logistical support staff you will find anywhere in any enterprise. If you visit with our troops, you meet all kinds of men and women: first generation Americans, those with a long family history of service, members of every race, religion, and, yes, even gays and lesbians serve as well, as we all know. Most of them seem impossibly young to me. All of them are unmistakably proud to be serving the United States of America.

Some of them will come home to a hero's welcome, applauded at the airports and greeted by the warm embrace of children who seem to have grown a foot while their mother or father was overseas. Some will come home with wounds that will require a lifetime of recovery; sometimes they are wounds we cannot see. Some of them will come home to find that the home they once knew is gone, and they will need a tremendous amount of our help and support to get back on their feet. All of them, of course, Mr. President, deserve our gratitude. All of them need our support, and all of them deserve to know, as they risk their lives, that the benefits they have earned will be there for them when they return.

Although I know we all share a deep appreciation for our men and women in uniform, the sad truth is that some in Washington have in previous years treated veterans' benefits as a line item like any other, subject to the political whims of the annual budget battles we have.

Let's be clear, if we can. Those benefits aren't a gift from a generous Congress. Those benefits are earned by our veterans, earned with sweat and blood and tireless duty. They represent the most sacred of promises, and they are promises we must keep.

That is why I have always fought for funding of veterans' benefits, including the best health care we have to offer, so that when our troops incur medical costs in defense of our Nation, they do not have to pay them out of their own pockets. That is why I have supported the post 9/11 GI bill, so that troops can continue their education, and fought to include military families under the Family and Medical Leave Act, so the burden of caring for a loved one doesn't crush a family who has already sacrificed so much.

We make these commitments to our troops in recognition of the commitment they have made to us. Today is a day to celebrate that commitment and to mark the many sacrifices it entails. Today, we think of young men and women across our Nation, just out of high school in many cases, sitting down with their parents to tell them they have heard the call to serve, pushing through the difficult days of basic training, facing that very first deployment to the battlefield. Today we think of those families they leave behind, as they pray for the safe return of their loved ones.

Today we will all think of those who have come home draped in the flag they have sacrificed their lives to defend, and those whose lives have been forever changed by the injuries they have suffered in defense of our liberties and freedoms. These are our sons and daughters, our fathers and mothers. They are neighbors of ours and friends and colleagues. They are truly our fellow heroes.

Today we thank them for their service, we mark their sacrifice, we take pride in their remarkable courage, and we reaffirm our commitment to keeping the promise we made when they raised their hands and volunteered.

Mr. President, I know I am not alone in my gratitude for our soldiers, sailors, airmen, marines and coastguardsmen. I certainly know I am not alone in my pride in our talented and dedicated military. I hope the troops who are away from home this Veterans Day, those who have returned, and the families who have helped carry their burden, will know they are not alone either. We all stand with them.

Mr. President, I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Arizona.

COLLAPSE OF THE BERLIN WALL

Mr. KYL. Mr. President, on this 20th anniversary of the Berlin Wall's collapse, I would like to say a few words about the Cold War and the lessons we should take from it.

It is often said that President Ronald Reagan won the Cold War without firing a shot, and that is true. Unfortunately, the current administration seems to have forgotten the overarching lesson of President Reagan's legacy.

Reagan's predecessor had urged Americans to abandon their inordinate fear of communism, but Reagan was determined to infuse U.S. foreign policy with a sense of moral clarity, which had been lost during the 1970s. The Reagan administration championed the cause of democracy activists in Russia and Eastern Europe, and it did not shy away from highlighting the Soviet Union's complete denial of personal freedom.

In 1982, when the United States was mired in its worst recession since World War II, President Reagan defied the pessimism of the day, and he predicted:

> The march of freedom and democracy which will leave Marxism-Leninism on the ash heap of history as it has left other tyrannies which stifle the freedom and muzzle the self-expression of their people.

Roughly a year later, he called the Soviet Union what it so obviously was, an ''evil empire.'' The ''evil empire'' speech drew criticism from many of Reagan's domestic political opponents, and it greatly angered the Kremlin. But it also galvanized Soviet dissidents who were encouraged that a U.S. President had been bold enough to denounce the moral bankruptcy of communism.

One particular Soviet dissident, Natan Sharansky, found Reagan's speech deeply inspiring. Sharansky read about it in the pages of Pravda, the Soviet propaganda newspaper, while he was imprisoned in a gulag prison camp on the Siberian border. Years later, Sharansky described his reaction to the speech and the reaction of his fellow prisoners:

> Tapping on walls, word of Reagan's provocation quickly spread throughout the prison. We dissidents were ecstatic. Finally, the leader of the free world had spoken the truth—a truth that burned inside the heart of each and every one of us.

Mr. President, this past June, when prodemocracy rallies broke out in Iran following a fraudulent election, I hoped the current administration would follow President Reagan's example of American leadership and offer strong support for the Iranians who took to the streets and risked their lives to oppose a tyrannical regime. But the President's statement at the time, expressing ''deep concerns about the election,'' lacked the moral fortitude the world has come to expect from America, the world's standard bearer of freedom and democracy.

New antigovernment protests began last week to mark the 30th anniversary of the 1979 takeover of the U.S. Embassy in Tehran. Still, the White House failed to use the opportunity to make the moral case for freedom over totalitarian oppression. In a message to the White House, demonstrators could be heard chanting: ''Either you're with them, or you're with us.''

The President's decision on how to respond should be easy: the administration should stand with democracy and use this opportunity to underline the moral failings of Iran's dictatorship.

Anthony Dolan, chief speechwriter for President Reagan, wrote in the Wall Street Journal today:

> Reagan spoke formally and repeatedly of deploying against criminal regimes the one weapon they fear more than military or economic sanction: The publicly spoken truth about their moral absurdity, their ontological weakness—their own oppressed people.

Moral clarity helped Ronald Reagan bring down Soviet totalitarianism during the 1980s, and it can help us bring freedom to Iran today.

The ACTING PRESIDENT pro tempore. The Senator from Illinois.

VETERANS DAY

Mr. DURBIN. Mr. President, this morning, I woke up in Chicago, got dressed, came downstairs, met a staffer, went off to a breakfast, out to the airport, and then here to work in Washington on Capitol Hill. It was a fairly normal day for Members of the Senate and Congress. We move about and don't think twice about restrictions on our movement or problems that we might have in getting from place to place except for traffic, perhaps a delayed airplane. But for 6,800 veterans, they woke up this morning in a hospital bed at home or went from that bed to a wheelchair and will stay in that house today and every day.

There are 6,800 seriously disabled veterans who are not in veterans hospitals or in nursing homes but at home—at home with someone who loves them very much.

Yesterday, in Chicago, I had a press conference with a young man named Yuriy Zmysly. Yuriy Zmysly is a veteran of both Iraq and Afghanistan, who came home, and during the course of a surgery at a Veterans Hospital, after he was home, had a serious complication—a denial of oxygen to his brain—and he has become a quadriplegic. Yuriy has no family, but he had a devoted and loving young woman in his life—Aimee. After he faced quadriplegia, Aimee said she wanted to marry him. So Aimee married Yuriy during his struggle with this health issue and now has given her life to him every day, every minute, every hour. She is a caregiver who is there for her husband, a veteran.

Mr. President, repeat that story 6,800 times, and you will find husbands and wives, parents, brothers and sisters, who are giving their lives every single day to disabled veterans who are at home surviving because of the love and concern of people like Aimee Zmysly.

I think of Ed and Marybeth Edmondson, whose son Eric was the victim of a traumatic brain injury in Iraq. Ed quit his job, his wife gave hers up, and they moved in the house to take care of Eric and his wife and little baby. That is their life, their commitment to them.

I tell you these stories this week as we celebrate Veterans Day because I believe these caregivers deserve something special from us, from the American people, and from our government. That is why I picked up a bill introduced by Senator Hillary Clinton that provides a helping hand for caregivers such as those I have just described.

It isn't a lot, but it could make a big difference. It says we will offer them the very basics in training so that these home caregivers, these family caregivers, know what to do—how to change dressings on wounds, how to administer an intravenous formula or prescription, how to give an injection, how to move a patient from a bed to a chair and back again.

It provides also a monthly stipend for them—not a lot of money but something to help them get by because, for most of them, this is their life, this veteran they are working for every day to keep alive and as comfortable and happy as that person can be. It gives them 2 weeks of respite so they can take off and put themselves back together after all of the stress and strain, fiscally and mentally, of caring for this person they love.

I was so glad that DANNY AKAKA, who is chairman of the Senate Veterans' Committee, not only considered this bill but made it his own, added good things to it and reported it out of his committee and brings it to the floor where it sits on our calendar of business, a bill to help veterans caregivers, some 7,000 veterans caregivers who give each day to these veterans we treasure so much for their service to our country.

Sadly, this bill has been sitting on the calendar for weeks because one Senator objects to it. That is the way the Senate works—one Senator. This Senator's objection has held up this bill and held up our effort to provide a helping hand to these veterans caregivers. I would say to that Senator or any Senator, if you object to it, vote against it. If you want to offer an amendment, offer an amendment. But for the thousands of people who give this care, who sacrifice so much each day for these veterans who gave our country so much, we owe them a vote. I hope this week, even this short week before Veterans Day, we can move this bill for veterans caregivers across America, to give them a helping hand.

HONORING COACH DAN CALLAHAN

Mr. DURBIN. Mr. President, I rise today to honor an outstanding person in Illinois. His name is Dan Callahan. He is the head baseball coach at Southern Illinois University. I have known

Dan since he was 3 years old. He is being honored by the Missouri Valley Conference, receiving their ''Most Courageous'' award.

As Southern Illinois' baseball coach for the last 16 years, Callahan has led his team to more than 414 victories, making him the second winning-est coach in the school's history. Clearly, Coach Callahan has the talent to help his players perfect their skills as batters, pitchers and fielders.

But he has also coached them on some of life's harder lessons, showing them what it means to live a life of persistence and commitment.

You see, 3 years ago Coach Callahan was diagnosed with a form of melanoma, a cancer he is still battling today. After receiving his diagnosis, Callahan silently endured the rigors of his treatment while continuing to coach his team. He didn't miss a single game that season.

When the next season rolled around, Callahan was still battling his illness. This time he faced more intense treatment, including a surgery that would take away part of his lower jaw.

It was only then that he went public with his illness and continued to coach as much as his treatment would allow.

While the surgery damaged Callahan's depth perception and hearing, he's still leading his baseball team today. He may not be able to demonstrate a fastball with the same intensity that he once had, but he has certainly shown his players how to face adversity and not give an inch.

Last year, cancer or no cancer, Dan Callahan pushed through to record his 400th win at SIU and 550th victory as a NCAA Division I head coach.

This year Coach Callahan will receive the Missouri Valley Conference's Most Courageous Award, an award that honors those that have demonstrated unusual courage in the face of personal illness, adversity or tragedy.

Mr. President, I congratulate Coach Callahan on this award and wish him continued success in his recovery as well as another winning season. I salute his wife Stacy, his wonderful daughters Alexa and Carly, Dan's mom and dad, Gene and Anne Callahan, and the whole family who is joining him in this battle.

Now—as a man used to say in Chicago in his radio show—for the rest of the story. One of the reasons Dan Callahan is alive today is because he has extraordinarily good medical care and health insurance. Because of that care, his oncologist recommended a special drug, a biologic drug. It is called Avastin. Avastin is a drug that is used to treat various forms of cancer but it has not been specifically tested for the treatment of cancer that Dan Callahan has. They tried it and it worked. It stopped the spread of the cancer.

Dan, of course, was heartened and relieved, a young man with a young family. Having gone through chemotherapy and radiation, having faced surgery where his jaw was removed, having faced the disability and the discomfort, they found a drug. That is the good news.

The bad news is that his insurance company, WellPoint, announced they would no longer pay for this drug. They decided it was an experimental drug and even though Dan Callahan's oncologist wrote to the company and said: It works, I can show that it works, it stopped the spread of the cancer, they said, no, we won't cover it. The drug costs $13,000 a month. I need not tell you that a coach at a university in southern Illinois doesn't make the kind of money that he can afford to pay for this drug. So his family and friends rallied and raised enough money, through their own savings and borrowing, to pay for two more administrations of the drug. Washington University in St. Louis decided they would make him part of a trial on this drug as well and added another couple treatments with this expensive drug. But December will be the last time Dan Callahan will be able to receive this drug because WellPoint, his health insurance company, has said that is the end, no more.

You might wonder how WellPoint is doing as a company. They are doing very well. When it comes right down to it, it is one of the most profitable health insurance companies in America. It has the largest membership of any company in the United States. Its enrollment has fallen off a little bit but it didn't stop WellPoint from posting $730 million in profits for the last 3 months.

Despite their profitability and their strength in the stock market and the increase in the share value, they have decided they will no longer cover the use of this drug for Dan Callahan.

If this is a story that sounds as if it involves something far away, not a part of our lives, stop and think twice. Each of us is one diagnosis or one illness away from what Dan Callahan is facing today in his battle with WellPoint. If these companies can turn us down for lifesaving drugs and treatments at these critical moments, then we are entirely at their mercy. If you cannot shop for another health insurance company because you have a history of cancer or preexisting illness, you are stuck. You are at the mercy of them.

Is that as good as it gets in America? This still is the only industrialized country in the world where a person can literally die for lack of health insurance. That is what we face in this debate about health care reform. There are lots of opinions. I salute the House for passing the measure, sending it over here. We will hear those opinions expressed in the Senate in the weeks and months to come. As I consider this bill and what it means, I will be thinking about my friend, the coach at Southern Illinois University. I watched him start off as a little kid playing baseball and he turned out to be a terrific coach and, more than that, a terrific person. He is well deserving of his ''Most Courageous'' award.

The question now is will the Senate summon the courage to change this system and bring fairness to the system for the millions of Americans across this country who run the very risk of this very same challenge.

I ask unanimous consent to have printed in the RECORD an editorial from the St. Louis Post-Dispatch which was published yesterday relating to Dan Callahan's case.

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

[From stltoday.com, Nov. 6, 2009]

COSTLY NEW DRUGS: A CRISIS FOR ONE FAMILY, A QUANDRY FOR U.S.

(By: Editorial Board)

It began with a little black spot on Dan Callahan's lower lip. He didn't think it was anything to worry about. His doctor thought it was cancer. The doctor was right. It was neurotropic melanoma, a very rare—and very serious—type of skin cancer. Even after the little black spot was successfully removed six years ago, the cancer remained. And grew.

Last October, doctors at Barnes-Jewish Hospital began chemotherapy. They used a three-drug cocktail that includes Avastin, one of a new generation of anti-cancer drugs. It works by blocking the formation of new blood vessels that feed and nourish tumors. Until just a few years ago, that kind of treatment was the stuff of science fiction.

For patients battling advanced cancer like Mr. Callahan, Avastin represents something as important as food or water: It is time in a vial.

This is what it cost: $13,686 per treatment. Mr. Callahan has received six so far. Total price: $82,116. What's it worth? That's a much more difficult question.

About 10 miles up Illinois Route 13 east of Carbondale, Ill.—just above Crab Orchard Lake—lies a little town called Carterville. Mr. Callahan lives there with his wife, Stacy, and two daughters. Alexa, 18, is a student at the University of Illinois. Carly, 13, is in eighth grade.

You can buy a three-bedroom house in Carterville for about what Mr. Callahan's six infusions of Avastin cost. For about $100,000—the price of a year's treatment—you can get a classic bungalow with a screened-in front porch, a long, shaded driveway and a two-bedroom cottage out back.

The Callahans both have good jobs and health insurance. Stacy works for a credit union. Dan is the head baseball coach at Southern Illinois University-Carbondale.

Their insurance paid for minor surgery to remove the little black spot from Mr. Callahan's lip. It paid for more extensive surgery in April, when doctors removed the right side of his jaw trying to stop the cancer's spread.

And it paid for yet another operation in September, when infection forced doctors to remove the prosthetic device they had implanted to replace his missing jaw.

But Mr. Callahan's insurance won't pay for Avastin.

The U.S. Food and Drug Administration approved Avastin in 2004 to treat advanced colon cancer. Since then, it has been cleared for breast and lung cancers. Doctors are free to prescribe it for other forms of cancer. It is being tried on 30 other cancers, including melanoma, but those uses technically are experimental.

Because many experimental treatments don't pan out, insurance companies in Illinois and most other states do not have to

cover them. The major health care bills pending in Congress would not change that. For the first time, they allow generic versions of so-called biologic drugs like Avastin. But only after 12 years on the market, twice as long as other drugs.

For thousands of Americans, including the Callahans, that means many newer cancer drugs are out of reach. ''When they told me the insurance wouldn't cover it, I said we'll just pay for it ourselves,'' Mrs. Callahan recalled last week. ''Then they told me how much it cost.''

The Callahans scraped together about $27,000 from friends and family members—enough to cover the cost of two treatments. They got a grant from Washington University to pay for four more. They are appealing the insurance company denial, so far without success. The grant expires at the end of December. After that? Mrs. Callahan paused. ''We don't know what we'll do.''

Despite the high prices and higher hopes, Avastin has been shown to extend cancer patients' lives by only a few months. Many patients and oncologists say it improves quality of life and shrinks tumors—or at least prevents them from growing. Mr. Callahan's doctor said it has slowed the progression of his tumor. That is no small achievement for patients with advanced cancer. But stopping the progression of cancer is not the same as curing it. A study published in January followed 53 melanoma patients who received Avastin. After 18 months, 13 were alive.

The company that makes Avastin, Genentech, spent about $2.25 billion to develop it. It spends another $1 billion a year testing it on new cancers. Avastin has been a blockbuster success. It had $2.7 billion in sales in the United States last year and more than $3.5 billion worldwide.

Genentech says Avastin's price reflects its value. Another cancer drug, Erbitus, costs even more, and it hasn't been shown to extend life at all. In March, Swiss pharmaceutical giant Roche agreed to buy Genentech for $46.8 billion. Avastin is a big reason the company was sold for so much money.

Not everyone agrees that Avastin is worth the price. Experts in Britain recommended against covering it. A drug that costs as much as a house and extends life for just a few months isn't worth the money, they said.

Some people go to pieces when they find out they've got cancer. Mr. Callahan went to work.

He has coached the Salukis for 14 years. ''I try to carry on like I'm going to be here next week and next month,'' he said. ''I think about coaching in 2010, about going to my daughters' college graduations and their weddings.''

His 2009 team finished with 24 wins and 28 losses. Coach Callahan was too sick to travel to away games. But he was in the dugout each time the Salukis took the field in Carbondale.

From the beginning, the Callahans have made it a point not to ask doctors about his prognosis. ''We don't want to know it, and we don't want our kids to know it,'' Mrs. Callahan said. ''We just wanted to live our lives as normally as possible, with no time line.''

Coach Callahan thinks it is inherently unfair that patients can be denied treatment simply because of a drug's high price. It's like giving one team an extra at-bat.

But the game is not over. Even with two outs in the ninth inning, even with two strikes against you, there's hope. And a question: Who sets the price of victory?

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

HEALTH CARE REFORM

Mr. JOHANNS. Mr. President, I rise today to speak about health care and the debate that is heading our way, especially now following the action of the House this last weekend. We all read the articles, we hear the debate, we hear the talk about trying to find a compromise when it comes to the government-run health insurance program. Some oppose it with passion. Some say they will not support reform without it. There is a whole variety of opinions.

One idea that seems to be picking up steam in this effort to find a compromise is the idea of a trigger, whatever that means. Proponents call it a safeguard. They say it will trip only if insurance premiums go up.

Here is the problem with that. Inherent in the underlying legislation is the sure-fire trip that could set off the trigger. You see, we already know that current proposals in this health care reform initiative itself will cause premiums to rise. The government mandates and taxes and all of the other things that are going to be burdened upon health insurance policies are going to cause the premiums to rise. We are saddling policies with huge new fees and taxes and mandates.

The Finance bill piles $67 billion in new fees on the very policies that the vast majority of Americans have. Can anyone claim with a straight face that premiums will not go up under these circumstances, caused by governmental action? The nonpartisan Congressional Budget Office—if you have any wonder about this—confirms it. Its analysis of the Finance Committee bill says the fees imposed would, and I am quoting from the CBO, ''be passed on to purchasers and would ultimately raise insurance premiums by a corresponding amount.''

This idea of a trigger that trips only if premiums rise is an illusory safeguard. It is because the trigger is rigged to shoot.

Further evidence is the fact that the trigger fires if health insurance is deemed, and again I am quoting, ''unaffordable.'' Guess who gets to decide that. The government will decide that. It will decide what affordability is. So bureaucrats pull the trigger by simply labeling premiums ''unaffordable'' after all of these fees and higher taxes on these policies kick in. This illusory safeguard is meant to appease those of us concerned about making Washington the great czar of health care, but it doesn't work.

I believe the American people see through this. I urge those who support a trigger to be straightforward about what their stance is. If they are for government-run health insurance, say let's go there.

Incidentally, I will passionately debate that position. I don't believe it is in the best interests of our Nation, but I will not criticize them for holding that opinion. After all, that is what the Senate floor is for, to debate opinions. On the other hand, I take issue with disguising a government takeover of health insurance and calling it a trigger. I take issue with laying additional taxes on health insurance policies and then calling a press conference to complain that premiums went up. The implication that the trigger will never fire, quite honestly, gets to be folly.

I gave a speech a week or so ago on the floor and I talked about the opt-in and the opt-out. There is no real option if States will have to face the unfunded mandate's tax and fees. I pointed that out in that speech. The only thing States can opt out of, or choose not to opt in to, I believe, when we see the actual language, will be the benefits. All of the other burdens will fall upon the taxpayers of that State. It is an illusory option. It is a false promise, just like the trigger.

Just like the trigger. Some suggest the trigger is just like the trigger in the part D, the Medicare prescription drug benefit. I have heard that argument too. But, boy, is there a world of difference between what happened there and what is being proposed here.

You see, Part D was designed to ensure competition in an entirely new marketplace. It was measurable. It was not discretionary. It asked this question: Would private insurance companies enter into this marketplace? Well, they did. The trigger being discussed now is very different. It is set up to shoot. It is based upon the word ''affordability,'' and the government holds the power of deciding that issue. Then the government holds the power to tax policies, and, of course, as the CBO pointed out, that is going to translate into higher premiums.

You see, what I see happening here is that the government is setting itself up to be both the pitcher and the umpire—the pitcher, who throws the ball, and the umpire, who gets to call the strike. I do not think the game is working fairly.

The goal of a trigger is to ensure competition. So let's drop the illusions, and let's enable real competition. Let's allow insurance companies to compete across State lines. The so-called trigger is just camouflaging the true intent: to establish a government-run system.

I can't help but wonder, is the intention to confuse opt-in, opt-out, triggers, co-ops, exchanges? But it all boils down to the same thing: you are going to end up with a government-run health insurance industry and a government-run health care system. Whether it is opt-in, opt out, trigger, co-ops, it really is no real option. There is no free marketplace. Instead, it is government making your health care decisions, forcing you, dictating to you not only to carry insurance but dictating the kind of policy you will have and requiring that your plan be approved in Washington, causing many to be displaced from their private insurance.

Now is not the time to raise taxes, add mandates, and put jobs in jeopardy. This massive, all-at-once approach is a very risky experiment with 16 percent of our economy. It is a huge gamble. It is a dangerous risk being taken with our health care.

Common sense tells us that change is needed in this arena, but how about a step at a time to see if that change works, and then we can move forward to the next step. We can take positive steps. But opt-outs, out-ins, co-ops, exchanges, triggers—they are illusions and not solutions.

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

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

The legislative clerk proceeded to call the roll.

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

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

Mr. ALEXANDER. Mr. President, how much time remains?

The ACTING PRESIDENT pro tempore. There is 5½ minutes remaining in morning business.

Mr. ALEXANDER. I ask the Presiding Officer to inform me when I have 30 seconds remaining.

Mr. President, the House of Representatives passed, by just five votes, a health care reform bill over the weekend. Some said it was historic. It is, indeed, historic. It is a combination of higher premiums, higher taxes, Medicare cuts, and more Federal Government debt.

Millions of Americans, if it were to pass, will be forced into government plans when their employers stop offering health care insurance.

As a former Governor of Tennessee, I simply do not see how Tennessee can pay for its part of the Medicaid expansion without imposing a new State income tax and damaging higher education or both.

Health care reform is supposed to be about reducing costs, not increasing costs. Instead of raising taxes, raising premiums, Medicare cuts, more debt, and transferring new costs to States, we should be taking steps toward reducing health care costs.

On the Republican side, we proposed a number of those, starting with small business health plans which would allow small businesses to pool together their resources and offer insurance to their employees. That would be a good place to start. The Congressional Budget Office has said that the small business health care plan which Senator ENZI has proposed and is waiting for us to pass would reduce the cost of Medicaid, would increase the number of insured by 750,000 at least, and would lower the cost of insurance for 3 out of 4 small business employees.

So instead of this 2,000-page bill that raises premiums, raises costs, cuts Medicare, and increases the debt, why don't we start step by step to reduce costs?

I was privileged to attend the White House fiscal responsibility summit in February. The President invited me, and I was glad to go. He talked then about what is obvious about our country's fiscal situation and said that putting America on a sustainable fiscal course ''will require addressing health care.''

Then, at the President's White House health reform summit in March, the President himself introduced the ''b'' word, the ''bankruptcy'' word, which I am beginning to hear more and more about as these bills come toward us. The President said:

> If we don't address costs, I don't care how heartfelt our efforts are, we will not get this done. If people think we can simply take everybody who is not insured and load them up in a system where costs are out of control, it's not going to happen.

This is President Obama talking in March:

> We will run out of money. The Federal Government will be bankrupt; state governments will be bankrupt.

Well, that is the ''b'' word. That is our President talking. I think we should listen to those words and the repeated warnings from careful advisers that the cost of these health care proposals is going to get us in a state of fiscal ruin.

Here in Washington, we hear more about the Federal deficit, not so much about the condition of our States. At one time, maybe half the Senators were former Governors, as the Presiding Officer is and I was. Today, I think it is 12. But those of us who can remember those days remember what it was like trying to control Medicaid costs.

Governor Bredesen, a Democrat of Tennessee, told us over the weekend, our State—he told all of us that the House-passed bill will add $1.4 billion to the State budget over 5 years. If that is the case—and I know it is hard to put billions, trillions, jillions together up here and make them make sense, but let me try to make sense of what that could mean for our State, which is a conservative, well-run State. I don't see how the State of Tennessee could pay for its State share of the expanded Medicaid Program without instituting a new income tax or without seriously damaging higher education or both. And that is just one part of the new cost.

So what we are saying to the American people is, let's read this bill, let's know what it costs, and let's see how it affects you.

We will be seeing a Senate bill coming out from behind the closed doors of the majority leader within a few days. We look forward to debating it. We look forward to moving ahead with health care reform. But to us, raising premiums, costs, and taxes and cutting Medicare is not health care reform. Reducing costs with small business health plans, competition across State lines, reducing junk lawsuits against doctors—that is the direction we ought to go if we want to avoid seeing that ''b'' word show up on the front pages of our newspapers more and more.

I yield the floor.

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Morning business is closed.

MILITARY CONSTRUCTION, VETERANS AFFAIRS AND RELATED AGENCIES APPROPRIATIONS ACT, 2010

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will resume consideration of H.R. 3082, which the clerk will report.

The legislative clerk read as follows:

A bill (H.R. 3082) making appropriations for military construction, the Department of Veterans Affairs, and related agencies for the fiscal year ending September 30, 2010, and for other purposes.

Pending:

Johnson/Hutchison amendment No. 2730, in the nature of a substitute.

Udall (NM) amendment No. 2737 (to amendment No. 2730), to make available from Medical Services $150 million for homeless veterans comprehensive service programs.

The ACTING PRESIDENT pro tempore. The Senator from South Dakota.

Mr. JOHNSON. 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. GRASSLEY. 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. GRASSLEY. I ask unanimous consent to speak in morning business for 5 minutes.

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

Mr. GRASSLEY. Mr. President, I am here to discuss a very important matter that I had intended to bring up in the Judiciary Committee last week but the agenda did not allow it. It is about the oversight of the Department of Justice and the responses provided by Attorney General Holder to questions from the Judiciary Committee. Two weeks ago, Chairman LEAHY—and I thank him for participating—and I sent a letter to the Attorney General asking him to stand by his statements made during his confirmation and answer a number of outstanding requests for information. That list includes questions submitted by members of the Judiciary Committee to an FBI oversight hearing over 1½ years ago. We all agreed no committee should have to wait that long to get answers to oversight questions.

Last Friday, the Judiciary Committee received answers from the Attorney General following his June 17,

2009, testimony. I hoped he would uphold his commitment he made during his confirmation hearing to ''fully and in a timely fashion'' answer Judiciary Committee inquiries.

The questions I submitted to Attorney General Holder addressed a number of important issues, including a series of 24 questions related to the Department's involvement with the termination of Inspector General Walpin at the Corporation for National and Community Service. The answers I received were totally inadequate. Instead of answering the 24 questions, the Department responded with a five-paragraph recitation of publicly available facts and information. The Department also said it would respond under separate cover to the document requests. I appreciate the Department's comments that it intends to respond to my requests, but I am very concerned this is more of the same problem Chairman LEAHY and I were trying to get at with our letter 2 weeks ago.

My questions were more than just requests for documents and asking for a recitation of public facts. They were serious inquiries about the role the acting U.S. attorney played in the termination of that inspector general. I requested specific answers to questions that have arisen in my investigation. For example, I asked about communications between the U.S. attorney and the Office of Professional Responsibility and whether the referral by the U.S. attorney complied with the ethical requirements outlined in the U.S. Attorneys' manual for misconduct by non-Department of Justice attorneys and judges. While this is only one example of the questions I asked, none of the questions were specifically answered.

While the Department did say it was going to provide the documents I requested under separate cover, the response seems to indicate that all my questions were answered. They were not answered. I intend to get these answers.

This is a prime example of what is wrong with the inadequate responses to all our questions. They avoid the question and filibuster with public facts.

I have previously stated that unless the Department of Justice starts answering our questions completely and in a timely manner, I will start holding up nominees. I have done nothing but patiently work in good faith with the chairman and the Department to get answers. Yet despite these threats, it is business as usual.

This culture of not answering questions timely, in an evasive manner, and punting document requests to future separate cover letters is unacceptable. We have a constitutional duty to oversee the bureaucracy, and the executive branch is thumbing its nose at the Congress. I know Chairman LEAHY agrees oversight is an important part of what the Judiciary Committee does. I hope he will continue to work with all members to get answers from the Attorney General. He has surely helped me.

I am tired of wasting time having to raise these concerns publicly, but shaming the Department seems to be the only way they will respond, and even that doesn't work all the time. This administration rode into town on a campaign of accountability and transparency. Attorney General Holder told all of us he respected congressional oversight. Yet in his first set of oversight questions submitted by the committee, he gave us the same nonresponse we have seen from the Department. That is not the accountability or transparency the American taxpayers deserve.

This is yet another public warning to the Department. It is time to start responding fully to our requests in a timely manner or face the consequences. I hope the Attorney General and his staff will hear this and provide complete answers to our questions prior to his scheduled appearance in the Judiciary Committee later this month.

I see my colleague, Senator KYL. I think he has interest in this oversight matter as well.

I yield the floor.

Mr. KYL. Mr. President, I ask unanimous consent to speak for up to 10 minutes to continue the discussion Senator GRASSLEY has commenced.

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

Mr. KYL. Mr. President, I rise to join in the comments Senator GRASSLEY has offered. I voted for Attorney General Holder, and we had several conversations about being forthcoming in responding to our requests for information. I thought at the time he would be able to work with us and provide those kinds of answers and support. I have been disappointed, as has Senator GRASSLEY.

A couple of examples: June 17, we had a hearing at which Attorney General Holder was present. It was an oversight hearing. He was asked a number of questions. He took many of those questions for the record which, of course, is perfectly fine. But his answers were not submitted to us for another 4½ months. It was October 29 when we received the answers.

I wish to cite two examples of questions and answers which demonstrate the unresponsiveness of the Attorney General.

I asked him to identify the legal basis the Department of Justice could invoke to prevent a Gitmo detainee from being released into the United States if found not guilty in a Federal court—an important question because the administration apparently intends to bring Gitmo detainees to the United States for trial. Here is the response:

Where we have legal detention authority, as the President has stated, we will not release anyone into the United States if doing so would endanger the national security of the American people. There are a number of tools at the government's disposal to ensure that no such detainee is released into the United States, all of which are currently being reviewed by the Special Interagency Task Force on Detention Policy created pursuant to Executive Order 13493.

I asked the Attorney General to identify the operative legal authority that could be used to detain acquitted detainees. He responded by saying the administration probably would not release someone ''where we have legal detention authority.'' It is like a cat chasing its tail. What is legal authority? That was the question. Do you have legal authority? Releasing a detainee into the United States obviously could have grave consequences. I think we deserve more than just the Attorney General's vague and rather meaningless reference to tools at our disposal.

Similarly, I asked the Attorney General to explain whether the crimes committed by those presently held in U.S. prisons for conviction on terrorism charges are comparable to the terrorist acts of high-value detainees at Gitmo. The reason I asked was, they said we have several convicted terrorists in our prisons here in the United States. My question was, Well, but are those really serious crimes as opposed to the 9/11-related crimes committed by those we are holding at Gitmo?

His response was:

A number of individuals with a history of, or nexus to, international or domestic terrorism are currently being held in federal prisons, each of whom was tried and convicted in an Article III court.

We knew that.

The Attorney General considers all crimes of terrorism to be serious.

Well, so do I. I am glad the Attorney General considers all crimes of terrorism to be serious. But that does not answer my question: How do these crimes compare to the crimes of those high-value detainees at Gitmo?

So these are examples of the kind of nonresponses we get from the Attorney General when we ask questions.

Let me close with one final point, and then if Senator GRASSLEY would have anything else to say, I will certainly yield to him.

We know for several weeks we have had on the Judiciary Committee agenda a bill called the media shield bill. It is a bill that has a lot of problems with it. Many members of the past administration had written in opposition to the bill, pointing out the problem of convicting people who were engaged in espionage or acts of terror against the United States, in the event this legislation were to be passed.

So I was curious about this Attorney General's views on that. He finally got us a views letter last week, and he said ''the result of a series of productive and cooperative discussions with the sponsors and supporters of the legislation'' is how they put this latest draft together. Obviously, absent is any discussion with those of us who have expressed our longstanding concerns.

This is one of those matters I had raised with the Attorney General at his confirmation hearing, and his reply was:

The concerns you raised are legitimate ones.

So I am glad my concerns were legitimate.

He also said at his hearing that he would—I am quoting now—''work with both Republicans and Democrats on this Committee on a federal media shield law.''

Further, during my questioning of Attorney General Holder on the media shield bill, he again stated his willingness to ''work to address the concerns raised in'' views letters issued in the 110th Congress.

In response to my questions, he testified:

I want to talk to you and to people who worked on this bill and who might have a contrary view of it.

I never heard from him again. I met with him on May 4 to reaffirm my strong interest in the legislation. I never heard from him after that meeting.

This is despite the fact that in response to a question I asked, Attorney General Holder testified:

I want to talk to you and to people who worked on this bill and who might have a contrary view of it. As I said before, I guess in my opening statement, you know, knowledge doesn't reside only in the executive branch. The experience that you've had with this, the obvious knowledge that you have of these issues are the kinds of things that I need to be educated about. It may change my mind, frankly.

Well, maybe it would have. But by not talking to me, he was able not to change his mind.

I heard that a new version of the bill had been written, and I reviewed it. So, finally, on November 2 I called the Attorney General myself to express my concerns about it. I asked if I could get an explanation of why this version satisfied all of the objections that had been previously raised, and I interpreted his response to be that he would testify before the committee if he were called upon to do so.

Well, 2 days later, as I said, this views letter was sent to us. To put it charitably, it is extraordinarily light on analysis.

I, as I said in the beginning, voted for Attorney General Holder. I thought at the time he would keep the commitments he made to us under oath at his confirmation hearing. He assured us he wanted to work with us and he would be forthcoming and cooperative.

Mr. President, I think it is time for the Attorney General to keep the commitments he made in his confirmation hearing.

The ACTING PRESIDENT pro tempore. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, two things. I thank the Senator from South Dakota for giving us this opportunity to make this point. I hope the Attorney General will respond to our questions. We are just doing our constitutional job of oversight, checks and balances of our system of government.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from South Dakota.

Mr. JOHNSON. Mr. President, the MILCON–VA appropriations bill is very important to America's military forces and veterans.

On Wednesday, the Nation observes Veterans Day. There is no reason this bill should not be completed before Veterans Day. But if we are to achieve that goal, we cannot wait until Tuesday to start the debate and amendment process.

We have a choice. We can go home for Veterans Day with a speech in our pockets or we can go home for Veterans Day with a solid accomplishment for our veterans: passage of the fiscal year 2010 MILCON-VA appropriations bill, to our credit. I vote for the latter, and I urge my colleagues to join with me in working to make progress on this bill today so we will be able to move to final passage tomorrow.

Mr. President, I ask unanimous consent that the pending amendment be set aside.

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

AMENDMENT NO. 2733 TO AMENDMENT NO. 2730

Mr. JOHNSON. Mr. President, I call up amendment No. 2733 and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from South Dakota [Mr. JOHNSON] proposes an amendment numbered 2733 to amendment No. 2730.

Mr. JOHNSON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To increase by $50,000,000 the amount available for the Department of Veterans Affairs for minor construction projects for the purpose of converting unused Department of Veterans Affairs structures into housing with supportive services for homeless veterans, and to provide an offset)

On page 52, after line 21, add the following:

SEC. 229. (a)(1) The amount appropriated or otherwise made available by this title under the heading ''CONSTRUCTION, MINOR PROJECTS'' is hereby increased by $50,000,000.

(2) Of the amount appropriated or otherwise made available by this title under the heading ''CONSTRUCTION, MINOR PROJECTS'', as increased by paragraph (1), $50,000,000 shall be available for renovation of Department of Veterans Affairs buildings for the purpose of converting unused structures into housing with supportive services for homeless veterans.

(b) The amount appropriated or otherwise made available by title I under the heading ''HOMEOWNERS ASSISTANCE FUND'' is hereby reduced by $50,000,000.

Mr. JOHNSON. Mr. President, this August I had the opportunity to accompany Secretary Shinseki in South Dakota to meet with the many South Dakotans who have served our Nation. During this trip, the Secretary outlined for me his ambitious plan to end homelessness among veterans and impressed upon me how this is one of his top priorities for the VA.

The fiscal year 2010 MILCON-VA bill before us provides a significant amount of resources to help him accomplish that goal, including over $500 million for direct homeless programs. However, after returning from the August recess, I began to look into other efforts the VA could undertake to further address this issue. As many of you know, the VA has 153 hospitals, many on expansive campuses which include numerous buildings, some used and others sitting empty.

The amendment I have just offered would add $50 million to the VA's minor construction account specifically for the VA to renovate unused, empty buildings sitting on VA campuses for the purpose of providing housing with supportive services for homeless veterans. In today's economic climate, many of the community organizations and nonprofits that run homeless shelters for vets cannot come up with the capital needed to renovate unused VA buildings. This amendment would allow the VA to make those renovations and then pursue public-private ventures that address the problem of homelessness among vets.

The amendment is fully offset and does not exceed the subcommittee's allocation for budget authority or outlays. I would urge all of my colleagues to support this amendment.

Mr. President, I ask unanimous consent that Senators BYRD and FEINSTEIN be added as cosponsors.

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

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

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

The assistant legislative clerk proceeded to call the roll.

Mr. FRANKEN. 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.

AMENDMENT NO. 2745 TO AMENDMENT NO. 2730

Mr. FRANKEN. Mr. President, I ask unanimous consent to set aside the pending amendment and to call up my amendment No. 2745.

The ACTING PRESIDENT pro tempore. Is there objection?

Without objection, it is so ordered.

The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Minnesota [Mr. FRANKEN], for himself and Mr. JOHNSON, proposes an amendment numbered 2745.

Mr. FRANKEN. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

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

(Purpose: To ensure that $5,000,000 is available for a study to assess the feasibility and advisability of using service dogs for the treatment or rehabilitation of veterans with physical or mental injuries or disabilities)

On page 52, after line 21, add the following:

SEC. 229. Of the amounts appropriated or otherwise made available by this title for the Department of Veterans Affairs, $5,000,000 shall be available for the study required by section 1077 of the National Defense Authorization Act for Fiscal Year 2010.

Mr. FRANKEN. Mr. President, the amendment I offer today would fund a vital new initiative within the Department of Veteran Affairs that was authorized by the recent National Defense Authorization Act. This initiative is a VA program and study for the provision of service dogs to disabled veterans, which began as an amendment I offered to the Defense authorization bill and is now a provision in the enacted law.

This 3-year program will study the benefit of using service dogs to help treat veterans with physical and mental injuries and disabilities. It is meant to provide the VA with one more tool to raise the quality of life for those who have given so much to our Nation.

Under this program, the VA will partner with nonprofit organizations that provide service dogs free of charge to veterans. The government will offset some of the costs of providing the dogs, which are currently funded largely through private donations. This will allow roughly 200 veterans to be paired with dogs and to participate in the study. In this way, the program will amount to a public-private partnership where donors to those nonprofits will know their money will go further, thanks to public matching funds.

The veterans who participate in the study will be veterans with physical disabilities and with mental disabilities such as PTSD. It was one such veteran, CPT Luis Montalvan, who initially sparked my interest in this effort. I met Luis, who had been injured while serving in Anbar in Iraq, along with his service dog Tuesday, at an inaugural event. Luis explained to me that he could not have been there if it weren't for Tuesday who eases his PTSD in numerous and very impressive ways.

After meeting Luis, I undertook research and learned about all of the benefits that service dogs can provide individuals with disabilities. I saw the wonderful work of the nonprofits which give their time and the donors who give their money to undertake the intensive training and the provision of these dogs. I learned there were more veterans out there who feel they could benefit from such a service dog if they had access to one.

I introduced my legislation shortly after coming to office. The VA program it establishes will study—scientifically—the benefits to veterans of the service dogs, so we are proceeding based on evidence. The VA will also provide funds to veterans who participate in the study to cover some of the costs of maintaining their service dogs.

Today I am offering this amendment to the Military Construction and Department of Veterans Affairs appropriations legislation so the fully authorized VA initiative may now be fully funded. The amendment is straightforward and reasonable. My amendment today would simply make $5 million available for this study that passed by unanimous consent. In this way, we can both provide more service dogs to the veterans who want them, and we can study the benefits they can provide to those veterans and the most effective ways to provide those benefits.

Our Nation owes a profound debt to those who have served in the military. For those veterans with disabilities, we need to make sure the VA has as many effective tools for raising their quality of life as possible. My amendment would make sure that one of those tools is funded.

I urge my colleagues to support this amendment.

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

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

The assistant legislative clerk proceeded to call the roll.

Mr. JOHNSON. 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.

PROVIDING FOR A CONDITIONAL ADJOURNMENT/RECESS OF THE HOUSE AND SENATE

Mr. JOHNSON. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H. Con. Res. 210, the adjournment resolution, received from the House and is at the desk.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The assistant legislative clerk read as follows:

A resolution (H. Con. Res 210) providing for a conditional adjournment of the House of Representatives and a conditional recess or adjournment of the Senate.

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. JOHNSON. Mr. President, I ask unanimous consent that the concurrent resolution be agreed to and the motion to reconsider be laid upon the table.

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

The concurrent resolution (H. Con. Res. 210) was agreed to, as follows:

H. CON. RES. 210

Resolved by the House of Representatives (the Senate concurring), That when the House adjourns on any legislative day from Friday, November 6, 2009, through Tuesday, November 10, 2009, on a motion offered pursuant to this concurrent resolution by its Majority Leader or his designee, it stand adjourned until 2 p.m. on Monday, November 16, 2009, or until the time of any reassembly pursuant to section 2 of this concurrent resolution, whichever occurs first; and that when the Senate recesses or adjourns on any day from Friday, November 6, 2009, through Tuesday, November 10, 2009, on a motion offered pursuant to this concurrent resolution by its Majority Leader or his designee, it stand recessed or adjourned until noon on Monday, November 16, 2009, or such other time on that day as may be specified in the motion to recess or adjourn, or until the time of any reassembly pursuant to section 2 of this concurrent resolution, whichever occurs first.

SEC. 2. The Speaker of the House and the Majority Leader of the Senate, or their respective designees, acting jointly after consultation with the Minority Leader of the House and the Minority Leader of the Senate, shall notify the Members of the House and the Senate, respectively, to reassemble at such place and time as they may designate if, in their opinion, the public interest shall warrant it.

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

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

The assistant legislative clerk proceeded to call the roll.

Mr. INOUYE. 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.

MILITARY CONSTRUCTION, VETERANS AFFAIRS AND RELATED AGENCIES APPROPRIATIONS ACT, 2010—Continued

Mr. INOUYE. Mr. President, I ask unanimous consent that the pending amendment be set side so I may say a few words.

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

Mr. INOUYE. Mr. President, let me begin, first, by thanking Chairman JOHNSON and Senator HUTCHISON for their fine work in preparing this measure before us. Similar to the other appropriations bills for fiscal year 2010, this bill, which provides the necessary funding for military construction and veterans programs, was prepared by the subcommittee on a bipartisan basis.

I am very pleased to advise my colleagues in the Senate that the committee endorsed the bill unanimously and forwarded this matter to the Senate for consideration.

As my colleagues are aware, we are already more than 1 month into the new fiscal year, and we simply need to complete our work on this measure.

Moreover, Wednesday is Veterans Day. It would truly send the right message to our veterans for the Senate to pass this bill before November 11.

Again, I wish to commend the chairman and Senator HUTCHISON for their fine work on this measure and urge its adoption.

AMENDMENT NO. 2754

Mr. President, I rise to discuss amendment No. 2754, which has been cosponsored by Senators JOHNSON and COCHRAN, to reallocate unobligated fiscal year 2009 military construction funding to support President Obama's new European missile defense plan. The funding was appropriated in last year's appropriations bill for the European missile defense sites but can no longer be spent.

This amendment will enable the Missile Defense Agency to meet the President's timelines for defending Europe and the United States sooner against Iranian missiles.

I strongly endorse the President's European missile defense 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.

It is more robust and responsive to the increasingly pervasive short- and medium-range missile threats and is adaptable to longer range threats in the future. The new architecture focuses on using the proven standard missile-3 on Aegis ships and on land, together with additional sensor capability to provide more effective protection for ourselves and our allies.

In order to meet the timelines set out by the President to deploy a capability in Europe in the 2015 timeframe, General O'Reilly, Director of the Missile Defense Agency, has requested the Congress to reprogram $68.5 million to construct an Aegis ashore test facility at the Pacific Missile Range Facility in Hawaii. This amendment responds to that request.

I ask unanimous consent to have printed in the RECORD the letter from General O'Reilly requesting this transfer of funds.

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

DEPARTMENT OF DEFENSE,
MISSILE DEFENSE AGENCY,
Washington, DC, October 7, 2009.

Hon. DANIEL INOUYE,
Chairman, Committee on Appropriations, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: I am writing to request your support for reauthorization and reappropriation of $68.5 million of unobligated FY2009 MILCON funds, previously appropriated for deployment of missile defense capabilities in Europe, to support near-term requirements for the President's new Phased Adaptive Approach for missile defense in Europe.

Our top priority is the establishment of an Aegis Ashore test facility which could also provide an operational ballistic missile defense capability when needed. Due to its strategic location and multi-dimensional testing capabilities, the Pacific Missile Range Facility (PMRF) in Hawaii has been selected as the proposed site for this test facility, and placement of a test launcher at this site could also provide continuous protection for this region. Our goal is to complete this project in time to support the first flight test of the land-based Standard-Missile 3 interceptor in FY2012, which would require construction funding to be available for obligation in FY2010.

Your support to make these FY2009 MILCON funds available for the Aegis Ashore test facility is essential if we are to implement the President's new Phased Adaptive Approach in time to counter the growing ballistic missile threat. I am prepared to provide you with any additional information you may require.

Thank you for consideration of this request and your steadfast support for the defense of our Nation.

Sincerely,

PATRICK J. O'REILLY,
Lieutenant General, USA Director.

Mr. INOUYE. Mr. President, in the letter the general says that establishing this test facility is his top priority for the President's new plan for missile defense in Europe. He goes on to state:

Our goal is to complete this project in time to support the first flight test of the land-based standard-missile 3 interceptor in FY 2012, which would require construction funding to be available for obligation in FY 2010.

I offer this amendment with some reservation. It is critical to getting missile defense to Europe sooner, but it circumvents the normal order of business in the Senate under ordinary circumstances. This project should have been authorized in the fiscal year 2010 National Defense Authorization Act and then appropriated in the Military Construction bill. I take that process seriously and wish to explain to my colleagues the special circumstances under which I offer this amendment.

President Obama publicly announced his European missile defense strategy on September 17 of this year. This announcement came well after the House and Senate Armed Services Committees began the conference negotiation process.

In order to implement the President's new plan, General O'Reilly made the request to Congress for an AEGIS ashore test facility on October 7, the same day that the House and Senate completed the conference agreement on the Defense authorization bill. Due to conflicts in timing, the conferees were not able to consider this late request from the administration. Thus, an amendment on the fiscal year 2010 Military Construction appropriations bill is the best path to get the facility started in order to meet the administration's timelines. If there was a better way to proceed, I would do so. Unfortunately, these unusual circumstances have put us in this situation.

The fiscal year 2010 National Defense Authorization Act provided flexibility for the Missile Defense Agency to spend over $240 million of research and development funding in fiscal years 2009 and 2010 to purchase equipment associated with the AEGIS ashore test facility and begin the development of the new European ballistic missile defense architecture. The military construction funding is needed at this time in conjunction with the research and development funding to begin implementation of the European missile defense plan.

Let me also make clear that this amendment is not asking for additional money. This funding is presently available. The Missile Defense Agency has over $150 million in fiscal year 2009 unobligated funds that were appropriated for the missile defense sites in the Czech Republic and Poland that are no longer needed. This amendment would use a portion of those funds to begin construction of the AEGIS ashore test facility in fiscal year 2010.

Lastly, let me comment on the site chosen for the AEGIS ashore test facility. According to the Missile Defense Agency, the Pacific Missile Range Facility on the island of Kauai has been the center of excellence for AEGIS ballistic missile defense testing for the last 12 years and will continue in that regard for the next decade. Indeed, just 2 weeks ago, the Pacific Missile Range Facility hosted the successful intercept test of the Japanese AEGIS ballistic missile defense program. To date, the Pacific Missile Range has supported 20 AEGIS tests. In addition, PMRF also has a proud track record of testing the Missile Defense Agency's Theater High Altitude Area Defense System, with five tests at the range since 2007.

The Pacific Missile Range Facility is the world's largest instrumented missile testing and training range. The Department of Defense and the Missile Defense Agency, in particular, utilize this range due to its relative isolation and ideal year-round climate and encroachment-free environment. Furthermore, it is the only range in the world where submarines, surface ships, aircraft, and space vehicles can operate and be tracked simultaneously. For these reasons, the Missile Defense Agency believes the Pacific Missile Range Facility is the ideal location to support AEGIS ashore testing.

I urge my colleagues to support this amendment. If this test facility does not get started in fiscal year 2010, the Missile Defense Agency will not be able to meet the flight test scheduled to demonstrate AEGIS ashore capability prior to the administration's proposed 2015 deployment date to Europe. It is a very important amendment.

AMENDMENT NO. 2754 TO AMENDMENT NO. 2730

Madam President, I now call up amendment No. 2754 and ask for its consideration.

The PRESIDING OFFICER (Mrs. HAGAN). The clerk will report the amendment.

The bill clerk read as follows:

The Senator from Hawaii [Mr. INOUYE], for himself, Mr. COCHRAN, and Mr. JOHNSON, proposes an amendment numbered 2754 to amendment No. 2730.

Mr. INOUYE. Madam President, I ask unanimous consent that the reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To permit $68,500,000, as requested by the Missile Defense Agency of the Department of Defense, to be used for the construction of a test facility to support the Phased Adaptive Approach for missile defense in Europe, with an offset)

On page 27, between lines 3 and 4, insert the following:

SEC. 128. (a)(1) The amount appropriated or otherwise made available by this title under the heading ''MILITARY CONSTRUCTION, DEFENSE-WIDE'' is hereby increased by $68,500,000, with the amount of such increase to remain available until September 30, 2014.

(2) Of the amount appropriated or otherwise made available by this title under the heading ''MILITARY CONSTRUCTION, DEFENSE-WIDE'', as increased by paragraph (1), $68,500,000 shall be available for the construction of an Aegis Ashore Test Facility at the Pacific Missile Range Facility, Hawaii. Notwithstanding any other provision of law, such funds may be obligated and expended to carry out planning and design and construction not otherwise authorized by law.

(b) Of the amount appropriated or otherwise made available by title I of the Military Construction and Veterans Affairs Appropriations Act, 2009 (division E of Public Law 110–329; 122 Stat. 3692) under the heading ''MILITARY CONSTRUCTION, DEFENSE-WIDE'' and available for the purpose of European Ballistic Missile Defense program construction, $69,500,000 is hereby rescinded.

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

The PRESIDING OFFICER. Will the Senator withhold the request for a quorum call?

Mr. INOUYE. I set aside my request.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. COBURN. Madam President, I ask unanimous consent to, No. 1, offer an amendment, which I will do in 3 or 4 minutes, and then spend 3 or 4 minutes on that amendment and then ask unanimous consent for 15 minutes to talk on the Executive Calendar as well as speak in morning business.

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

AMENDMENT NO. 2757 TO AMENDMENT NO. 2730

Mr. COBURN. Madam President, I ask that the pending amendment be set aside and that amendment No. 2757 be called up.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the amendment.

The bill clerk read as follows:

The Senator from Oklahoma [Mr. COBURN] proposes an amendment numbered 2757 to amendment No. 2730.

Mr. COBURN. I ask unanimous consent that the reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To require public disclosure of certain reports)

At the appropriate place, insert the following:

SEC. _____. (a) Notwithstanding any other provision of this Act and except as provided in subsection (b), any report required to be submitted by a Federal agency or department to the Committee on Appropriations of either the Senate or the House of Representatives in this Act shall be posted on the public website of that agency upon receipt by the committee.

(b) Subsection (a) shall not apply to a report if—

(1) the public posting of the report compromises national security; or

(2) the report contains proprietary information.

Mr. COBURN. Madam President, this is a very straightforward amendment. This is an amendment I have offered on all appropriations bills to date. We passed it on Housing and Urban Development-Transportation. We passed it on Energy and Water. We passed it on Interior. We passed it on the Defense appropriations bill. It is an amendment that says that the reports that are asked for in this appropriations bill, unless there is reason to not yield to the people of this country the information contained in that report for either national security or defense purposes, that those studies will be made available to the American citizens and the rest of the Senate.

Each appropriations bill, in proper fashion and by a good job by the Appropriations Committee, asks for reports and reviews on how the money is spent. All this amendment does is require that the reports that are required to be submitted by a Federal agency in this act be posted on a public Web site of that agency for all Members of Congress and all Americans to see. There is an exception for reports that contain classified or proprietary information.

In the House and Senate version of this bill, the following reports are—I won't go through all of them—what action DOD and the State Department have taken to encourage host countries to assume a greater share of the defense burden—that is something that ought to be shared with the American people; an annual report on operation and maintenance expenditures for each individual general or flag officer quarters at each of our bases around the country during the prior year; a report of the Secretary of Veterans Affairs on approved major construction projects for which funds are not obligated within the timeframe provided for in the act—in other words, to know what we are getting ready to spend, what is obligated; a report detailing the current planned use of property estimated to have greater than $1 million in annual rental costs; a detailed report on how the $3 billion that has already been appropriated for information technology projects at the Veterans Administration' is spent, including operations and maintenance costs, salaries, and expenses by individual project; and then finally, a quarterly report on the financial status of the Veterans' Administration, a health status.

This is just plain, good, open government. It creates transparency, and it allows the American people to hold us to account. By requiring that Federal agencies produce reports funded in this bill and publicize them on a Web site, everybody will have easy access to the reports. That is not the case today in the Senate or in the Congress. Evaluating and reading these reports may prompt a congressional hearing, Federal legislation, or even termination of a Federal program or policy.

This is a straightforward amendment. It is my hope our colleagues will accept this amendment and it will become part of this appropriations bill as well.

NOMINATION OF JUDGE ANDRE DAVIS

Madam President, I now wish to spend a few moments talking about Judge Andre Davis, who is the nominee for the Fourth Circuit Court of Appeals.

I sit on the Judiciary Committee, and I voted against Judge Davis's nomination coming out of the Judiciary Committee. I thought the American people ought to know why.

He is definitely an individual of integrity. He is a very pleasant individual. I enjoyed the banter back and forth during the hearing. But as a Federal district judge, Judge Davis has been reversed by the Fourth Circuit Court numerous times. A lot of judges get reversed, but there is a trend with Judge Davis where we have seen the law misapplied. So I have some real concerns. This is a lifetime appointment to this circuit court, No. 1. No. 2, the Supreme Court only hears 80 cases a year, so if a case comes to a circuit court, most often that is a final determination.

Let me spend a little bit of time on characteristics of these reversals because they are very concerning to me. He has been reversed by the Fourth Circuit Court in six different cases where he was noted to suppress evidence. For those of you like me who are not lawyers, let me explain what that means.

Suppressing evidence in a criminal case most often results in a defendant not being convicted of a crime and a victim and their family not receiving justice. Not only do the victim and victim's family not get justice but the government has to spend taxpayer dollars and resources to appeal the case to the next level. Let me give some examples.

In the case of U.S. v. Kimbrough, Judge Davis suppressed the statement of a defendant who, while in the presence of police, told his mother he had a gun in the room. The officer was trying to give him his Miranda warnings at the time when the mother asked him if there was anything else in the basement, besides the cocaine that was readily visible to her and the officer.

In reversing Judge Davis's decision, the Fourth Circuit offered a harsh rebuke stating that since the mother ''is a private citizen, her spontaneous questioning of [the defendant] alone, independent of the police officers, could never implicate the Fifth Amendment.'' The court further stated that Judge Davis's conclusion that '' 'Miss Kimbrough's involvement in questioning her son was the equivalent of official custodial interrogation,' . . . is at best incomplete and, taken literally, is simply erroneous.'' The Fourth Circuit said that a statement made in

these circumstances should ''never'' be suppressed and Judge Davis's reasoning was ''simply erroneous.''

In U.S. v. Siegel, Judge Davis suppressed evidence of the defendant's 20-year history of scheming and plotting to take money from previous husbands in a case where the defendant was accused of dating the victim, taking his money, and then killing him. The facts of this case are particularly worrisome.

The defendant had met the victim and started dating him, eventually taking his money and trying to have him institutionalized. After failing at having him institutionalized, she killed the victim and hid his body. Although the body was found in 1996, it was not identified until 2003. During that time, the defendant remarried and continued to collect the man's Social Security checks. When the body was identified, Federal agents contacted her and she told them the victim was alive and had run off with some other woman. She was arrested and charged with murdering the victim to prevent him from reporting her fraud. When the prosecution sought to introduce the defendant's prior bad acts at trial, Judge Davis refused. According to the Fourth Circuit, Judge Davis was concerned about the length of the trial. The Fourth Circuit reversed, finding that the evidence was admissible and, because the government charged the defendant with committing murder to prevent being reported for fraud, this evidence was an essential element of the government's case. As for Judge Davis's concern about a lengthy trial, the Fourth Circuit concluded that was an improper basis for excluding wholesale this clearly probative and relevant evidence of other crimes. On remand, the defendant was found guilty.

In the case of U.S. v. Jamison, Judge Davis suppressed the confession of a felon who shot himself, called out to police for help, and then gave the confession during the routine police investigation into his injury. He was charged with being a felon in possession of a firearm. The court of appeals reversed Judge Davis's ruling and said the man's confession was admissible in the case.

In U.S. v. Custis, the defendant was prosecuted for several Federal drug and firearm offenses. The evidence used against him included weapons and drugs that were seized by the police from his truck and residence. The police search was based on a warrant obtained with evidence they compiled from an informant who had given them reliable data on the defendant's drug operation. Judge Davis granted the defendant's suppression motion, finding that the search warrant was faulty. The Fourth Circuit reversed, stating that Judge Davis erred in granting the defendant's motion to suppress the evidence, and that if Judge Davis had read the supporting affidavit in a ''commonsense, rather than hypertechnical manner, as he was required to do,'' he would not have excluded the evidence.

There are many other cases where Judge Davis has incorrectly suppressed evidence that I will not go into at this time. There are many other reasons, whether it be violating the sentencing levels according to the Fourth Circuit, an abuse of discretion, remanding for resentencing, or being more than a neutral arbiter in terms of plea arrangements. Here is what the Fourth Circuit said about Judge Davis's role in terms of the plea arrangements:

> We have not found a single case in which the extent of judicial involvement in plea negotiations equaled that in the case at hand. The district court repeatedly appeared to be an advocate for the pleas rather than as a neutral arbiter, and any fair reading of the record reveals the substantial risk of coerced guilty pleas. We can only conclude that the district court's role as advocate for the defendant's guilty pleas affected the fairness, integrity, and public reputation of judicial proceedings.

I won't go on, but those six cases I outlined are enough for me to not be able to support this judge, who is obviously a very fine gentleman and a good man, but who I believe has made some significant inexcusable errors on the bench.

Finally, I want to spend a moment talking about a bill several of my colleagues have brought up, and it is the veterans caregivers omnibus bill. Regardless of what the news reports say, and my colleagues say, I am not opposed to us making sure we keep each and every commitment we make to veterans. I think many of the programs that are in this bill are ideally suited for the problems our veterans have. What I object to is the fact we are going to create $3.7 billion worth of spending—and that is a CBO score, not my score, the $3.7 billion worth of spending—over the next 5 years and not make any effort whatsoever to eliminate programs that don't have anywhere near the priority this program does.

The other thing I object to is the timing. There is no question we need to do this, especially for our wounded warriors. But we are excluding our Vietnam veterans from having access to this same care, and we are excluding the first gulf war veterans from having the same access. They have the same needs. Nobody can deny they don't have some of the same needs, but we are excluding them, and from a constitutional standpoint, I am not sure we can ever get to the point where we would agree that is fair treatment for our veterans.

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

Mr. COBURN. I wish to finish my statement first. I listened to the Senator's statement earlier today on the floor, so let me finish my statement.

The other thing that is concerning is we have a bill before us right now—this appropriations bill—that has no money for this in it, one, and authorizations aren't required. So $280 billion of the money we appropriate every year is not authorized. The fact there is no money in this bill for this program tells me something, that the urgency of getting a press release isn't near the urgency of the needs of our veterans. Because if we allow the normal process to happen, it will be 18 months from now before any money comes forward for this bill.

Finally, we have offered up a list of programs we think have much lower priority than our veterans' health care, and so I think of my brother, who is a veteran, and I ask myself: What did he serve for? What did he fight for? Did he fight so we could come back here and undermine the future by not making the same tough choices that are required for every family and, more importantly, not demonstrate the courage in our service that the veterans demonstrate in their service—which is putting yourself at risk to do what is best for our country? That is what they do, but we ought to be doing the same thing.

We ran a very large deficit this last year. Forty-three cents of every dollar we spent this last year was borrowed. None of the people in this room will ever pay a penny toward that debt. It will be our children and grandchildren. And the fact is we will not make the hard choices to pay for this so that tomorrow we can say, we are going to eliminate these programs so this program can go forward, and we are going to take the money that is going for these programs so this program can go forward.

What this appropriations bill does, as a matter of fact, is ask for a study from the Veterans' Administration on the need of this bill. So if this bill is certainly a priority, the funding for it should have been in this appropriations bill, and it is not. Nobody can deny it is not. So I come to the question: When will enough be enough? When will we stop playing a game on dollars and ultimately make the same hard choices and demonstrate the courage our veterans have demonstrated? I can't think of many veterans who want now what is paid on the backs of their children or grandchildren. What they want to see us do is the hard work, as they do the hard work, to put ourselves at risk by telling some people no so we can tell veterans yes. What we are doing today is we are going to tell veterans yes but we are going to tell our children no.

I can easily outline for my colleagues $300 billion—that is ''B'' for billion—of waste, fraud, and duplication in the Federal budget. They may disagree with some of that, but there is no question you could get a consensus on $3.7 billion of that. On 1 percent of it, you could get a consensus. But there is no effort made on this authorization bill to create priorities. What we hear all the time is: Well, that is not the way it works up here. Authorization bills are simply that, and it has to go through the appropriations, and you are not spending any money.

Well, if we are not spending any money on this bill, then we are not solving the problems for our veterans.

And if we don't have any money for this program in this appropriations bill, we are holding out a hollow promise.

I ask my colleagues to work with us. Let's offset the price for this, demonstrate the same courage and the same level of commitment. There has been no secret on who has said we should not pass this by unanimous consent, and there has never been a time that we refused to talk to anybody about that.

My hope is the American people are listening. Sure, we do want to do the right things for our veterans, but there has to come a time when we are forced to make hard choices, and we are not seeing that. We are not seeing that in this bill, and we are not seeing it in the authorization for this veterans and caregivers omnibus bill.

With that, I yield to my colleague from Illinois, and retain the time until he has finished asking whatever question he may have.

Mr. DURBIN. I thank the Senator from Oklahoma.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. I ask the Senator from Oklahoma, is the Senator suggesting we should open this up to caregivers for veterans of all wars?

Mr. COBURN. Yes, sir.

Mr. DURBIN. Would the Senator from Oklahoma join me in that endeavor?

Mr. COBURN. If we are going to do this bill, yes, I would.

Mr. DURBIN. Would the Senator from Oklahoma also agree that this bill was on the calendar long before Veterans Day?

Mr. COBURN. Absolutely, but when was the hold? Less than 3 weeks ago. It wasn't brought to the floor before then.

Mr. DURBIN. It was brought to the floor on September 25.

Mr. COBURN. Okay, 5 weeks. Pardon me.

Mr. DURBIN. Also, I would ask the Senator if he is suggesting we should have included the appropriations for this bill before we authorized it?

Mr. COBURN. I would answer my colleague that we do that 280 billion times a year.

Mr. DURBIN. The Senator would endorse that, and wants us to include the appropriations before we set up authorizing language?

Mr. COBURN. What I would tell my colleague is you do it routinely on the appropriations bill. So why is this any different?

My question to my colleague is: If in fact this is so important to get done today, knowing there is no money in this bill for this—my colleague would agree with that, would he not, that there is no money in this appropriations bill for this act? Is that a correct statement?

Mr. DURBIN. To my knowledge, there is not.

Mr. COBURN. There is not. So we are going to say we are going to authorize something in the hopes that we have to do it right now, knowing that unless we have an omnibus or a supplemental this won't actually happen until we get to this bill again next year.

Mr. DURBIN. So is the Senator from Oklahoma conceding an authorizing bill does not spend money, since the passage of this authorizing bill, as you said, would not spend a penny?

Mr. COBURN. No, I will not concede that. Because what it does is it causes us—and I enjoy debating my colleague from Illinois. Here is my point on authorization bills. We can authorize and authorize and authorize, and when we do, we are telling veterans they are going to get this. That is what we are telling them. We are communicating to every veterans organization and we are telling them we are going to do this. So if we are going to tell them we are going to do it, we ought to put in process the way to do it. And if we are saying it has to happen right now, then where is the money? Show me the money to make it happen right now.

The fact is—and I will reclaim my time—we play games, and the game we are playing is that we can authorize and send out a press release but then we are not held accountable to do what we have authorized. There are a lot of good key components in this bill. My objection is twofold: One, it discriminates against previous veterans, which I think is uncalled for; and two, we don't eliminate any of the waste in terms of authorizations so that we more focus the Appropriations Committee.

There is no question the Appropriations Committee has the power to fund money anywhere they want and they do it whether the bills are authorized or not authorized. I will be glad to give the Senator from Illinois a list of the $280 billion we spend every year that is not authorized. It is a spurious argument to state that we should not have fiscal accountability when we authorize programs. We should have and we ought to make the tough choices. The problem is, we do not do any oversight, to speak of, to cause us to know the programs that are not working that we could eliminate so we will not have duplicate funding and so we will not spend it.

The question veterans ask me is what is our priority with our money. The first priority has to be defending the country. The second priority ought to be about taking care of veterans. What we do is we have $300 billion a year in waste, fraud, and duplication on things that do not do either of those and that are extremely wasteful. Nobody with common sense would say they ought to continue. Yet we continue down the process.

I have taken more than my time and I know my colleagues are going to vote. I would tell my colleague from Illinois we have had this debate a large number of times. We have a frank disagreement about the fiscal discipline that should be required of us as Senators. The fact is, we are going to authorize a bill and we are not going to make any tough choices about anything else and we are not going to take away any options from the Appropriations Committee when it comes to funding. To me, that abrogates our responsibility to be good authorizers. I will stand by that conviction as long as I am in the Senate. We had that debate on the bridge to nowhere, which my colleague supported, which was in an authorizing bill—and multiple times.

With that, I yield the floor and I am prepared to listen to my colleague from Illinois.

Mr. DURBIN. Madam President, I know we have a standing order for a trigger to move to the Executive Calendar, but I ask unanimous consent for 5 minutes for the purpose of making a unanimous consent request, a short statement, and then to ask two other amendments which I have introduced to this bill be called and be pending.

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

Mr. DURBIN. Madam President, I will speak briefly to the Senator from Oklahoma. This is not my bill. This was a bill introduced by Senator Hillary Clinton. It has been around for a long time. It is an effort to provide some help to the 6,800 families who have in their homes today a disabled veteran who needs a caregiver, someone who helps that veteran change the dressings on their wounds, provides an IV change if necessary, injections if necessary, move them from bed to chair and back again. For many of our veterans, that is their lifeline. It is a wife who is giving her life to her husband who has returned injured from a war. It is a mother, a father, a son, a daughter, a loved one in the family. These people are as much a part of our veterans medical system as the great people who serve us at the veterans hospitals and veterans centers across America.

What Senator Clinton wanted to do and what I want to help her do is provide some help for these caregivers. Many of them are giving their lives to this veteran. It is not too much to ask that we help them with a small stipend each month, with training so they know how to do the things that are necessary so they can provide the medical help these veterans need, with 2 weeks of respite so they can have a little time off by themselves and have someone else, such as a visiting nurse, step in for the veteran during that period of time.

We reported the bill out of the Veterans' Committee and brought it to the floor. By custom in the Senate, regardless of what you just heard, we first pass a bill authorizing a program and, if it is passed, we appropriate money to the program. I am trying to follow that regular order.

The Senator from Oklahoma has objected. He is the only person objecting. Because of his objection 6,800 veterans, those who served Iraq and Afghanistan,

are unable to get this additional care. I know we cannot give it to every caregiver. I know it will be limited, and we will have to make that decision as part of our deliberation as to what we can do. But to say we should do nothing for these people is to make a mockery of this Veterans Day. If we truly care for these veterans, let us care for these families who are giving their lives to help them.

I hope the Senator from Oklahoma will lift the hold on this bill, give us a chance to debate it, offer his amendments. That is what we are here for. But to merely stand and say: No, stop, I will not allow it, I don't think is what the Senate should be about. Let us debate his point of view, my point of view, other points of view, and try to reach some conclusion.

AMENDMENT NO. 2759 TO AMENDMENT NO. 2730

I ask that the clerk call up my pending amendment No. 2759.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Illinois [Mr. DURBIN] proposes an amendment numbered 2759.

The amendment is as follows:

(Purpose: To enhance the ability of the Department of Veterans Affairs to recruit and retain health care administrators and providers in underserved rural areas)

On page 52, after line 21, add the following:

SEC. 229. (a)(1)(A) Of the amount made available by this title for the Veterans Health Administration under the heading ''MEDICAL SERVICES'', $1,500,000 shall be available to allow the Secretary of Veterans Affairs to offer incentives to qualified health care providers working in underserved rural areas designated by the Veterans Health Administration, in addition to amounts otherwise available for other pay and incentives.

(B) Health care providers shall be eligible for incentives pursuant to this paragraph only for the period of time that they serve in designated areas.

(2)(A) Of the amount made available by this title for the Veterans Health Administration under the heading ''MEDICAL SUPPORT AND COMPLIANCE'', $1,500,000 shall be available to allow the Secretary of Veterans Affairs to offer incentives to qualified health care administrators working in underserved rural areas designated by the Veterans Health Administration, in addition to amounts otherwise available for other pay and incentives.

(B) Health care administrators shall be eligible for incentives pursuant to this paragraph only for the period of time that they serve in designated areas.

(b) Not later than March 31, 2010, the Secretary of Veterans Affairs shall submit to the Committees on Veterans' Affairs and Appropriations of the Senate and the House of Representatives a report detailing the number of new employees receiving incentives under the pilot program established pursuant to this section, describing the potential for retaining those employees, and explaining the structure of the program.

AMENDMENT NO. 2760 TO AMENDMENT NO. 2730

Mr. DURBIN. Mr. President, I ask unanimous consent that the amendment be set aside and the clerk call up amendment No. 2760.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Illinois [Mr. DURBIN] proposes an amendment numbered 2760 to amendment No. 2730.

The amendment is as follows:

(Purpose: To designate the North Chicago Veterans Affairs Medical Center, Illinois, as the ''Captain James A. Lovell Federal Health Care Center'')

At the end of title II, add the following:

SEC. 229. (a) NAMING OF HEALTH CARE CENTER.—Effective October 1, 2010, the North Chicago Veterans Affairs Medical Center located in Lake County, Illinois, shall be known and designated as the ''Captain James A. Lovell Federal Health Care Center''.

(b) REFERENCES.—Any reference to the medical center referred to in subsection (a) in any law, regulation, map, document, record, or other paper of the United States shall be considered to be a reference to the Captain James A. Lovell Federal Health Care Center.

Mr. COBURN. Madam Presiding, during today's conversation, the Senator from Illinois stated that S. 1963 had been on the Senate calendar since September 25, 2009. In fact, S. 1963 was read the second time and placed on the calendar on October 29, 2009. A request was not made for unanimous consent to pass the bill on the minority side until Friday, November 6, 2009.

There are currently 35,000 veterans receiving aid and attendance benefits from the Department of Veterans Affairs, which provides funding for veterans who need extra help at home but do not need institutional care. The aid and attendance program assists all disabled veterans of all wars. Out of this population, around 2,000 veterans received their injuries after September 11 and would qualify for extra caregiver assistance in this bill. However, caregivers for tens of thousands of veterans of prior wars would not. Of course, that assumes that the House passes the Caregiver Assistance Act in its Chamber and the President signs it into law. Then it assumes that next year, in the discussion on the fiscal year 2011 budget, the President requests funding for caregiver assistance, or that both appropriations committees include funding, and that the President signs this into law. The absolute earliest that a caregiver would receive assistance is October 1, 2010. However, that date is not likely given the performance of the Department of Veterans Affairs. Right now, the average processing of a disability claim is 162 days at the Department. Given that the Department will have to make rules on this new benefit, it will be well into 2011 before any caregiver benefits from this program. However, passing this bill before Veterans Day will give benefits to politicians, who will have made an empty promise in 2009 that might not be realized until 2011, and even then, would be paid for by our children and grandchildren.

EXECUTIVE SESSION

NOMINATION OF ANDRE M. DAVIS TO BE UNITED STATES CIRCUIT JUDGE FOR THE FOURTH CIRCUIT

The PRESIDING OFFICER. 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 Andre M. Davis, of Maryland, to be United States Circuit Judge for the Fourth Circuit.

The PRESIDING OFFICER. Under the previous order, there will be 60 minutes of debate, 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.

Ms. MIKULSKI. Madam President, I am a little confused about the order. Parliamentary inquiry of the pending business: Are we now considering the nomination of Andre Davis?

The PRESIDING OFFICER. The Senator is correct.

Ms. MIKULSKI. Madam President, as the senior Senator from Maryland, I have been designated as the Democratic representative. Of course, I note on the floor the distinguished ranking member, Senator SESSIONS. I was going to lead off, if that does meet with the Senator's approval.

Mr. SESSIONS. Yes, I say to the Senator from Maryland, I think that would be quite appropriate and fine with me.

The PRESIDING OFFICER. The Senator from Maryland is recognized.

Ms. MIKULSKI. Madam President, this is an exciting day for me. It is an exciting day because I am here to present a distinguished jurist from Maryland to be nominated to sit on the Fourth Circuit Court of Appeals.

Judge Davis is from my hometown of Baltimore. He has been nominated to sit on the Fourth Circuit Court of Appeals. He comes before the Senate for a vote on his confirmation. His nomination has been approved by the Judiciary Committee, and I thank both the chairman of the Judiciary Committee, Senator LEAHY, and the ranking member, Senator SESSIONS, for moving this nomination through the committee process and the majority and minority leaders for bringing this nomination to the floor.

For 8 years as the Senator from Maryland, I have pressed for a qualified Marylander to fill the Maryland vacancy on the Fourth Circuit Court of Appeals. I have worked with my colleague, Senator Sarbanes, and now Senator CARDIN. This seat was once held by the late Judge Francis Murnaghan, a true legal giant, with deep roots of civic engagement as well as a record of extraordinary judicial competence. Today, we are presenting a nominee who is worthy to fill this seat.

I am honored to introduce Andre Davis to serve on the Fourth Circuit Court of Appeals. He is a man of the highest caliber, one of judicial experience, one of great integrity and also outstanding intellect. He has received the American Bar Association's highest ratings.

When I consider a judicial nominee, and particularly one for the circuit court of appeals, I have four criteria. No. 1, that person must be someone of absolute personal integrity. They are, after all, a judge. They must bring judicial competence and a record demonstrating judicial competence and also a record showing judicial temperament. My third criterion is they must have a commitment to core constitutional principles and also a history of civic engagement in Maryland. In other words, they must be a real Marylander, not just a ''ZIP Code'' Marylander, meaning living in Maryland as a matter of convenience.

Judge Andre Davis passes all these tests with flying colors. When I introduced Judge Davis at the Judiciary Committee hearing, I wished to present to my colleagues then, as I do now, that he has a compelling personal narrative. He comes from roots of very modest means. His father was a teacher, his stepfather was a steel worker, he grew up in the gritty neighborhood of east Baltimore in a family who valued hard work and also community service.

He earned a scholarship to attend Phillips Academy, Andover, no small feat for an African American. He was 1 of 4 African Americans in a school of over 800 students, and even then, as a young man, he knew that with opportunity came responsibility to help others who were not so fortunate.

He earned his bachelor's degree at the University of Pennsylvania and then graduated from the University of Maryland School of Law. While at the Maryland School of Law, he won the Myerowitz Moot Court Competition. He chaired the Honor Board and the law faculty awarded him the prestigious Roger Howell Award at graduation. He had a distinguished career as an undergraduate and graduate.

He comes before us for this vote as someone who has judicial competence. He was originally nominated by President Clinton in the year 2000 for the Fourth Circuit. At that time, the ABA unanimously gave Judge Davis its highest rating of ''well qualified.'' Why? Because, for the last 22 years that Andre Davis has served as a judge, he served at three different levels—at the State courts and at the Federal courts. He currently sits as a Federal district judge for the Maryland District, nominated by President Clinton and unanimously confirmed by the Senate. So he served in the State courts, where his judicial opinions, judicial behavior, judicial judgment could be observed. People like him, they know him, they respect him.

His judicial record demonstrates an ability to handle difficult situations with a calm, thoughtful, rational temperament. He is known for thorough reasoning. He has not only served as a distinguished judge, but also he came to the courts as an experienced prosecutor. He was with the Civil Rights Division at the Department of Justice and with the U.S. Attorney's Office in Maryland.

In addition to being a judicial leader, he has also been a community leader. He, again, believes for every opportunity there is a responsibility. He served on the board of directors of the Baltimore Urban League, which provides so many vital services to our underserved communities. He was the president of the Legal Aid Bureau and a founding member and chair of the board of the Baltimore Urban Debate League, so that young people in our public schools could learn the excitement of high school debate which, for many of our inner-city youth, was a pathway not only to eloquence and rational argument and the love of combat over the clash of ideas but gave them a taste of a world outside their own community and even put them on the road to scholarships.

He served for 4 years as the president of Big Brothers and Big Sisters of Central Maryland, knowing not everybody had a dad and not everybody has a mom. If we can come up, through the Big Brothers and Sisters, with programs showing a caring adult, it also helps with our young people.

Judge Davis has great integrity, a strong work ethic, and a commitment to public service. He presents uncompromising views on judicial independence. He is an independent thinker, dedicated to the rule of law and core constitutional principles. Well-respected colleagues consider him a first-rate judge, with an unassailable record in the community as a lawyer and as a judge.

I hope the Senate will confirm him. I am proud to be here to speak up for him and to stand for him and I will be proud to cast my vote in support of him.

With deep roots in the Maryland community, distinguished and experienced as a judge, I think he would be an excellent addition to the Fourth Circuit Court of Appeals. I am going to thank my colleagues today for giving this matter their attention.

As I conclude my initial presentation with Judge Davis, I would like to take a moment and speak on personal privilege. This is a big day for me. It is a big day for Andy Davis. He has been waiting a long time since he was first nominated by President Clinton. But now his time will come to be judged by the Senate whether he is deemed worthy of someone on the Fourth Circuit.

But it is a special day for me. Today is the first day in over 124 days since my accident coming out of Catholic Mass where I broke my ankle. This is the first day that I can actually come to the floor of the Senate and stand up for someone in whom I truly believe because I believe he will stand up for the Constitution that made our country great. I come with no space boot; I come with no props to hold me up. It is a very big day. So I am very excited about the fact that I am able to do this.

FALL OF THE BERLIN WALL

It is also a special day in world history. Today is the day the Berlin Wall came down. I was filled with excitement on that wonderful day because the roots of my own heritage lie in Poland. We are proud American citizens, but we kept the heritage of the old country alive in our home, particularly because Poland, after World War II, was sold out at Yalta and Potsdam through an agreement that was ill-conceived, and history bore the point.

We watched Poland fall as Hungary and the Czech Republic and others behind the Iron Curtain. They were called captive nations. Then we saw in Berlin that another wall went up and began the famous Berlin Airlift where America came to the rescue. They themselves in East Berlin were behind another version of the Iron Curtain called the Berlin Wall.

Today we commemorate that 20 years ago—through nonviolent participation and the efforts of people such as Ronald Reagan, Maggie Thatcher, the world's prayers, a strong Democratic United States of America saying, ''Mr. Gorbachev, tear down that wall''—that wall came down.

It started when an obscure electrician jumped over a wall in a shipyard in Gdansk. His name was Lech Walesa. It started the Solidarity movement. It sparked all of Central Europe through dissidents such as Haval. It led finally, through political leadership—such as President Reagan, such as Maggie Thatcher, such as all of us here—to bring down that wall.

So today we commemorate bringing down the Berlin Wall, bringing down the Iron Curtain. When we elect Andrew Davis as an African American to the Fourth Circuit, that famous Fourth Circuit with roots deep in the South, we are going to bring down another wall. But is that not what a great democratic nation does? We bring down walls through democratic action, through commitment and resolve, and doing it through nonviolence.

This is indeed a great day for the world and a great day for Andrew Davis and a very special day for me.

I yield the floor.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. CARDIN. Madam President, let me first compliment my colleague, Senator MIKULSKI, for her leadership in bringing forward the nomination of Judge Davis to the circuit court of appeals. I join her in her comments about the fall of the Berlin Wall, the importance that meant not just for Europe. The Berlin Wall represented not only a divided city, a divided country, but a divided continent. And the fall of that wall that we commemorate of 20 years

ago has significance well beyond that one city.

I was privileged to be in Berlin as the wall came down and will never forget those moments.

It is also nice to see my colleague on the Senate floor without the need of any aid. She has been a fighter all of her life. She has been a fighter during this episode. She never missed a beat as far as representing the people of Maryland.

But I particularly want to point out to my colleagues how proud I am of Senator MIKULSKI for the manner in which she has handled judicial appointments in our State. She is interested, as I am, in getting the very best on our Federal courts, and in the process that was set up for us to make recommendations to the President and make recommendations to our colleagues on the confirmation of judges from those who apply from Maryland. This represents an open process, a process that encourages our very interest to apply and become Federal judges, and one that is solely aimed at getting the very best talent onto our Federal courts.

That is certainly true with Judge Davis. It is certainly true with that nomination. Judge Davis had a hearing before the Judiciary Committee in April. In June, our committee reported him out favorably with a strong bipartisan vote of 16 to 3.

I am not going to go through all of the points that Senator MIKULSKI raised as far as his background. But I do want to underscore a few points I think are very important in the filling of this particular judicial position.

Judge Davis has strong roots in Maryland. This is a Maryland seat on the Fourth Circuit. He was born in and raised in Baltimore. He is still a resident of Baltimore. Judge Davis has an exceptional record of legal experience in our State, including working as an assistant U.S. attorney, as a State district court judge, as a State circuit court judge, and now as a U.S. district judge.

He received his bachelor's degree from the University of Pennsylvania and graduated cum laude with his J.D. degree from the University of Maryland School of Law where he still teaches classes as an adjunct faculty member.

He served as a district judge for the U.S. District of Maryland since his Senate confirmation in 1995. You see Judge Davis has deep roots in Maryland and deep roots in the judicial branch of government.

He has a longstanding record that he has demonstrated in protecting civil rights and liberties. I agree with my colleague, Senator MIKULSKI, that one of the principal standards we want to see in judges on our courts is an understanding of our Constitution and the protection it provides our citizens. That is particularly important on our circuit court of appeals.

To give you one example of Judge Davis's record in protecting the rights of our people, this was a landmark decision on civil rights, Reid v. Glendening, where Judge Davis ruled that the Baltimore City Courthouses were not wheelchair accessible, in violation of the Americans with Disabilities Act. He then ordered the city and State to create a plan to make the buildings accessible.

I think that is pretty gutsy when we realize that some of the support our judiciary needs comes from local government. Yet Judge Davis did what was required under our Constitution.

He has been praised by lawyers in Maryland as a smart, evenhanded, fair, and open-minded judge. He has served as a judge for 22 years. He has handled somewhere around 5,300 cases. Judge Davis received a ''well qualified'' rating from the American Bar Standing Committee on the Federal judiciary.

If confirmed, Judge Davis would be the third African-American judge to serve in the Fourth Circuit, which has one of the highest percentages of minority populations of any circuit in the country.

As my colleague pointed out, the Fourth Circuit has one of the highest vacancy rates of any court, any circuit in our Nation. Five out of the fifteen seats are vacant, which constitutes one-third of the appellate court. Indeed, Judge Davis is a replacement for Judge Francis Murnaghan, who died in August of 2000.

Judge Murnaghan also had a lifelong record as a Maryland resident who served on the Federal bench for 20 years and was one of the most respected lawyers and judges in our State. Judge Davis served as a law clerk for Judge Murnaghan on the Fourth Circuit from 1979 to 1980. So I think this is a very appropriate appointment.

I am proud to join the senior Senator from Maryland, Ms. Mikulski, in recommending to our colleagues the confirmation of Judge Davis. We believe he will continue the great tradition, the great record he has established as a Federal judge, as a State judge, and he will continue that when confirmed by this body to serve on the Circuit Court of Appeals for the Fourth Circuit.

We are proud to recommend his confirmation to our colleagues. With that, I see that the senior Republican on the Judiciary Committee, Senator SESSIONS, is on the Senate floor.

I yield the floor.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SESSIONS. Madam President, I would also like to speak on the Davis nomination and reluctantly I will speak in opposition to that nomination. There has been some discussion on the Senate floor today and previously in more detail about the need for the circuit judges. But I would just point out, having been through this system quite a bit, that during the 110th Congress four highly qualified consensus nominees to that court were presented to the Senate by President Bush and were not confirmed: Judge Robert Conrad, Judge Glen Conrad, Mr. Steve Matthews, and Mr. Rod Rosenstein.

I remember Judge Conrad. He is the presiding judge of his district and had been a U.S. attorney. I remember him testifying during President Clinton's difficulties, and then Attorney General Janet Reno looked all over the U.S. Federal prosecuting ranks to pick a U.S. attorney who would be a special prosecutor whom she would select to prosecute one of the allegations against President Clinton.

She chose Mr. Conrad. He concluded that there were no charges in that matter to be brought against President Clinton and was later appointed a Federal judge in the district and was confirmed, but he was blocked for the court of appeals. I always knew he would be a good decisive judge since he was a point guard on the University of North Carolina basketball team. They have to make decisions. They have to make decisions quickly.

So I would say a lot of effort went into confirming judges for vacancies that are not there today. Mr. Rosenberg was nominated to the seat as a judicial emergency in November of 2007, the very seat to which Judge Davis has been nominated. He was not confirmed. In fact, my colleagues on the other side of the aisle succeeded in holding that vacancy, this vacancy, open for 9 years.

I find it breathtaking that people would suggest that the Republicans, who tried to fill that vacancy for 9 years and had the nominees blocked, were responsible for vacancies which have been there for a long time. I find that quite an odd thing.

The ABA reported Mr. Rosenstein unanimously ''well qualified.'' In 2005 he was confirmed unanimously to be U.S. attorney for Maryland. Prior to his service as U.S. attorney, he held a number of positions in the Department of Justice under both Republican and Democratic administrations. Despite his stellar qualifications, he waited 414 days for a hearing and never got one. So his nomination expired in January of this year.

The reason, one reason, given for blocking his nomination was that he was doing a good job as U.S. attorney in Maryland, and that is where we need to keep him. Well, forgive me if I think that is a bit much, and I certainly do not think we need to have the outrage from the other side about vacancies on this court since they are a direct product of the efforts of my colleagues to keep that vacancy open.

But Judge Davis has fared much better than those four nominees did in the last Congress. He received a hearing a mere 27 days after his nomination. A committee vote occurred just 36 days later. Today the full Senate will vote on his nomination.

I would just say I think we need to take time to look at nominees and ask the tough questions. We are not a rubberstamp. Good nominees ought to

be confirmed. Sometimes we just have a disagreement, like we will about Judge Davis, and we will have a vote. They will be confirmed or not confirmed.

I would like to point out, however, that the average time from nomination to confirmation for nominees to the courts of appeals submitted by President Bush was 350 days, and that was the average. The majority of President Bush's first nominees, the first group—and Judge Davis is part of President Obama's first group—waited years for confirmation.

Some of them never even got a hearing, despite being highly qualified, outstanding nominees. So Judge Davis has done pretty well in getting his case before the Senate and being able to get a vote. The fact is, nominees are moving much faster than they did during the Bush years. But we do have a duty to fulfill in analyzing nominees because they are being considered for a lifetime appointment, an appointment to the court in which the only thing that constrains them in how they conduct their daily business is their personal integrity, their personal restraint, and the only thing that reduces the number of errors they might make is their ability and determination to do the right thing.

Judge Davis is currently a judge on the Federal trial court in Maryland. During his time on the bench, unfortunately, he has been reversed by the Fourth Circuit, the very court to which he is now being nominated, in a number of troubling cases. He has been criticized by that appellate court for misapplying the law, for throwing out relevant and lawfully obtained evidence and wrongfully dismissing cases where there were genuine unresolved issues between the parties.

If Judge Davis did not adequately assess the facts or apply the law in these fairly direct and simple cases, it raises a question as to why he would be qualified to be promoted to the Fourth Circuit, the appellate court, one step below the U.S. Supreme Court.

One of my colleagues on the Judiciary Committee argued that district judges are going to be reversed from time to time and that if we held every reversal against a nominee, no judge would ever be elevated to the court of appeals. That is a fair point. Even the best trial judge occasionally may be reversed by an appellate court. But I felt the responsibility to look at these reversals and ask whether these are normal kinds of reversals that could occur in tough cases. I have to say, I believe the cases reveal a disturbing pattern of mistakes, mistakes that consistently favor criminal defendants and evidence an anti-law enforcement tendency. That, as a former prosecutor in Federal court, makes me a bit nervous. Many of the rulings a Federal judge makes against a Federal prosecutor cannot be appealed. It is an awesome power they have.

These mistakes have real-world consequences for law enforcement officers who are out on the streets doing their best every day to follow the already complex body of law and rules required by the courts. Police train and work hard to try to do the things they are required to do by courts. Sometimes the courts have caused them to do things that are unwise, but they try to do them anyway. Yet in Judge Davis' courtroom, the rules seem to change from case to case. It is a dangerous thing. It leaves police unsure of how to comply with the law when they are trying to protect citizens from criminal activities. These kinds of mistakes and rulings in effect allow criminals to go free on technicalities.

Not only do the shifting ground rules make a police officer's job nearly impossible, these types of errors require appeals. Appeals cost money. They take time. They delay justice. Not only are many of Judge Davis' decisions wrong as a matter of law, they have an extremely detrimental impact on the workings of the criminal justice system. Within the last 5 years alone, the Fourth Circuit has reversed Judge Davis 13 times for errors that seem to consistently favor criminal defendants. Even more troubling is that those errors are basic errors of law. I have studied the cases and the issues involved. It seems to me these are errors that should not have been made. They raise doubts in my mind about whether he should be elevated—he has a lifetime appointment on the Federal district court—to a lifetime appointment on the court of appeals.

One of the most troubling cases he has ruled on was the case of United States v. Kimbrough. There the defendant was arrested in his mother's house. Police found him in the basement cutting cocaine, the ''knife on the mirror'' type cutting of cocaine. After the arrest and before police could read the defendant his Miranda warnings, the defendant's mother asked him if he had anything else in the basement—not the police, his mother. The defendant said he had a gun. The police went down and found the gun. They charged the defendant with unlawful possession of a firearm and possession of cocaine, both. The firearm charge would normally carry a mandatory penalty in addition to the cocaine possession charge.

Apparently, the judge didn't like that. Judge Davis threw out the defendant's statement that he had a gun because he said he had not been given his Miranda warning: You have a right to remain silent. The case went to the court of appeals, and he was reversed. The court of appeals in Kimbrough, the court he wants to sit on, had this to state, which is pretty obvious to me:

> The defendant's mother ''is a private citizen, her spontaneous questioning of [the defendant] alone, independent of the police officers, could never implicate the Fifth Amendment.''

Of course not. The Miranda warning is a court-created rule. It is not in the Constitution. Prior to its creation, police didn't give those warnings. But it is designed to help deter police from incriminating an individual and using the power of their badge to say something they didn't want to voluntarily say. But this was a question by the mother, not the police. It can, as the court said, never implicate the Fifth Amendment. The case was reversed after how many months and how much expense, we don't know. I do find it difficult to understand how that mistake was made.

Another of Judge Davis' cases that I find extremely troubling is United States v. McNeill. In that case, the defendant threatened to kill his girlfriend while in the presence of a police officer. What did the police officers do? They arrested him. At a minimum, this is a harassment charge, I submit, to threaten someone's life in the presence of the police. What would happen if the police officers hadn't arrested the man and they had walked off and left him there with his girlfriend and he had killed her? What would the public say then about the police officers? What would the average citizen say: Did you do your duty? Didn't you have the ability to make an arrest?

Judge Davis said he didn't. Judge Davis said he had no ability to make an arrest, to intervene in that circumstance. This is how it happened. They arrested him. They took him to jail. While he was in jail, he confessed to robbing a bank. Once again, Judge Davis threw out the confession, the whole case. If the arrest was bad and he was in jail, that was a product, I guess, of the poisonous tree and the confession was bad as to the bank robbery. So even though the police officer witnessed the defendant threatening his girlfriend, Judge Davis held the officer did not have probable cause to arrest the defendant. Once again, Judge Davis, however, was reversed by the Fourth Circuit.

The judge's troubling pattern of errors in criminal cases is further reflected in United States v. Dickey-Bey. There the defendant was charged with drug trafficking after he picked up packages that contained two kilograms of cocaine. Police had more than enough evidence against the defendant. This is what they had: Before the packages were mailed or when they were being mailed, a drug-sniffing dog detected the cocaine. The police then obtained a warrant, searched the packages and discovered two kilograms of cocaine in the package. The police then resealed the packages and allowed the packages to continue through the mail, apparently to their destination in Maryland. That is what we call—and hundreds of thousands of police officers call—a controlled delivery. The cocaine is not allowed to get out on the street, but they ship it. And let's see who comes up to pick it up. This is a common police procedure.

The defendant fit the description they had of the person who routinely picked up packages such as this from

this specific mail box. At the time of his arrest, the defendant had keys in his pocket to other mailboxes which had also been known to be destinations for packages of cocaine. Pretty good case, it looked like to me. In spite of all this, Judge Davis ruled that the police lacked probable cause. Probable cause to arrest is a low standard. If the defendant had a defense, he could always present it later and go to trial and be acquitted. But it certainly met the probable cause standard to make an arrest. He had two kilos of cocaine in his hands, apparently.

I will quote from the Fourth Circuit court he wants to sit on and what they said about his decision in Dickey-Bey:

> In reaching its conclusion, . . . the district court failed to step back and look at the totality of the circumstances and the reasonableness of the officers' belief, in light of those circumstances, that Dickey-Bey was a knowing part of a larger drug operation.

Pretty simple case. The impact for every police officer in America who might be listening today, the impact of this ruling, if that is not probable cause, is that controlled deliveries of this kind that occur quite frequently in law enforcement would be eliminated.

How much cocaine is two kilograms? It is a lot. Under the sentencing guidelines, two kilograms of cocaine powder would yield an offense level of 28 which means a 78 to 97 months' sentence for a first-time offender, mandatory. That is the range the judge would have to sentence within the sentencing guidelines, 78 to 97 months.

A bulk package of 2 kilograms of cocaine would sell for anywhere from $20,000 to $50,000 on the street, depending on the geographic region. According to the Sentencing Commission's 2007 Cocaine and Federal Sentencing Policy Report, the average ounce of cocaine sold on the streets of America for $1,150 in 2005. If it is broken into 1-ounce packages for resale, the 2-kilogram package could sell for over $81,000. So this is not a little bitty deal. That amounts to 10,000 to 20,000 dose units.

I am baffled how anyone could think there was not a crime being committed, how there was not probable cause to believe this individual was involved in a crime. Once again, Judge Davis was reversed by the Fourth Circuit Court of Appeals, fortunately; and, presumably, this case went on to trial.

Judge Davis threw out yet another confession in the case of United States v. Jamison. In that case, the defendant, a convicted felon, shot himself. He shot himself. He went to the hospital and called out to the police for help and confessed that it was his gun that he shot himself with. Well, he was a felon. He could not have a gun. So the police charged him with being a felon in possession of a firearm.

Judge Davis, however, threw out his confession, his statement he made to the police based on the finding that the defendant made the statement while in police custody and without the police having given him Miranda warnings. The Fourth Circuit reversed because the defendant was not in police custody; he was in the hospital. He had pretty good corroboration—the fact that he had a gun—because he had a bullet hole in himself, apparently.

This is what the court said, unanimously reversing this decision—the trial stops. Prosecutors have to appeal. The case is thrown out. They file the appeal. All this money is spent. The court pays for the defendant's lawyer to go up and argue the case. They have to write cases. Months go by.

Madam President, how much time do we have on this side?

The PRESIDING OFFICER. The Senator has 7½ minutes.

Mr. SESSIONS. I thank the Chair.

This is what the court said, in reversing him unanimously:

> [The defendant], and the court below, however—

The ''court below'': Judge Davis—

> misunderstand the reach of Miranda. . . . Miranda and its progeny do not equate police investigation of criminal acts with police coercion. This distinction is especially salient when the victim or suspect initiates the encounter with the police.

He asked for them to come and help him.

Of course, this pattern has been noted by the lawyers who appear before Judge Davis. One assistant U.S. attorney—a Federal prosecutor—was quoted as saying:

> While Judge Davis is well-respected by the defense bar for his patience and open-minded approach to legal arguments, Assistant United States Attorneys are often frustrated by his rulings in criminal cases . . . and have not hesitated to appeal.

Apparently they have been pretty successful in their appeals.

This assistant U.S. attorney also said that ''some prosecutors believe Davis doesn't trust . . . [the] police. . . .

Well, that is what I would say the record seems to indicate.

As a district court judge, Judge Davis' errors have been reviewed by the Fourth Circuit Court of Appeals. If he is elevated to that court, only the Supreme Court will then be able to review his decisions. But the Supreme Court only hears a small fraction of cases from the appellate courts and cannot continually correct garden variety legal errors.

If confirmed, Judge Davis will be the final avenue of appeal for many litigants. Of all the possible nominees who could have been submitted to this court, is this the one we believe would be best?

Courts of appeal have great power through their rulings and can create serious problems for prosecutors. So I would say, just based on my review of the cases I have mentioned, Judge Davis' decisions, if not reversed—fortunately, they were reversed—would have seriously damaged, if not eliminated, a police technique of controlled delivery of drugs to persons who would pick them up.

He seems to ignore the requirement that an individual has to be in custody by the police or be interrogated by the police before Miranda has to be given. That is a fundamental principle of universal acceptance. But, apparently, the judge is not one who follows that, and he has altered the standard for probable cause in a case that I think is troubling.

So the types of mistakes Judge Davis has made can indeed be a threat to public safety. Wasn't it fortunate they arrested the man who threatened his girlfriend and then that he blurted out he committed a bank robbery? Aren't we happy? But if his ruling had been upheld, the effect of that would be to tell every police officer if a person threatens their girlfriend in the presence of a police officer, they cannot make an arrest.

Our law enforcement officers work hard under dangerous conditions to investigate crimes and to apprehend and lock up criminals, many of whom are dangerous, carry guns, threaten girlfriends, shoot themselves. It could well have been somebody else who got shot. Yet the President is now seeking to elevate a judge who seems to have a real personal bias against the work that they do. He has nominated Judge Davis for elevation to the Court of Appeals for the Fourth Circuit—one step below the U.S. Supreme Court.

I think he does seem to have, if not a bias against, a lack of respect for clarity and consistency in the enforcement of criminal justice, and his errors tend consistently to favor the criminal defendant.

I am sure this nominee is a fine man. He has been on the bench a number of years. I have nothing against him personally. I am not questioning his integrity. But it does appear to me he has a cavalier or a lack of substantive commitment to get criminal justice matters right and has shown, by specific rulings against police and prosecutors, that he could do harm on the court of appeals.

So, Madam President, for the reasons I have stated, I am reluctantly voting against the nominee and would ask my colleagues to consider doing the same.

I yield the floor.

Mr. BUNNING. Madam President, today I rise in opposition to the nomination of Mr. Andre M. Davis to the U.S. Court of Appeals for the Fourth Circuit.

This position has been vacant since 2000, despite the previous administration's best efforts to nominate a qualified candidate. For example, President Bush nominated remarkable candidates when he sent Mr. Rod Rosenstein before the Senate in 2007 for the Fourth Circuit judgeship. At the time, my colleagues on the other side of the aisle argued that Mr. Rosenstein was ''too qualified'' to be appointed to this position. Now, President Obama has nominated Mr. Andre Davis, who has made very questionable rulings while enjoying the support from the same

Senators who opposed more qualified candidates.

While I do not raise issue with Mr. Davis's character, I find his judicial record very troubling. His rulings have been overturned by the Fourth Circuit numerous times. In over six different cases, Mr. Davis was noted and reversed by the Fourth Circuit because he suppressed evidence. Because of his rulings, criminals could and have been allowed to walk. The U.S. Supreme Court only hears a limited number of cases, which means that the final ruling on many more cases are made at the U.S. Circuit Court of Appeals level.

It is clear that President Obama and my colleagues on the other side of the aisle care less about sending a good candidate to the Fourth Circuit bench and more about pushing their own agendas. After holding up several more qualified candidates for this position, my colleagues in the majority insist on appointing someone who was reported out of the Judiciary Committee just 36 days after being nominated by President Obama. I urge my fellow Senators to oppose this nomination. Our justice system should not be compromised over political agendas.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Madam President, I came over here and listened to the debate, and I was wondering just who was being considered. It is not the description I would have of Judge Andre Davis of Maryland. I will, in a moment, go to that.

But, first, Madam President, I ask unanimous consent that upon confirmation of Executive Calendar No. 185, the Senate remain in executive session and vote immediately on confirmation of Executive Calendar No. 471, the nomination of Charlene Edwards Honeywell to be U.S. district judge for the Middle District of Florida; that upon confirmation, the motion to reconsider be considered made and laid upon the table; no further motions be in order, and any statements relating to the nomination be printed in the RECORD; the President be immediately notified of the Senate's action, and the Senate then resume legislative session.

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

Mr. LEAHY. Now, Madam President, let me tell you who Judge Andre Davis is because listening to this description, you would not recognize the person. This is a nomination that should not have taken the Senate 5 months to consider—5 months—after it was reported by the Judiciary Committee on a strong bipartisan vote of 16 to 3. The Republicans who voted for him: Senator HATCH, Senator KYL, Senator GRAHAM, and Senator CORNYN—are not people who are apt to give an easy pass to somebody who is not qualified.

In fact, he is a well-respected judge who has served for 14 years on the Federal bench as a district court judge; and before that, 8 years as a Maryland State court judge.

Then, for an impartial review of who this person is—not a partisan review but an impartial review—the American Bar Association's Standing Committee on the Federal Judiciary rated his nomination ''well-qualified.'' That is the highest rating they can give to anybody. So there is no surprise Judge Davis enjoys the strong support of his home State Senators: Senator MIKULSKI and Senator CARDIN. In fact, Senator CARDIN chaired his confirmation hearing back on April 21, and he has been a strong advocate for Senate action on his nomination.

While it is not surprising, it is nonetheless disappointing the Senate has been prevented from considering this nomination for 5 months by Republican objections. I am not surprised because Senate Republicans began this year threatening to filibuster President Obama's judicial nominations before he had made a single one. They have followed through with that threat by obstructing and stalling the process, delaying for months the confirmation of well-qualified, consensus nominees. Last week, the Senate was finally allowed to consider the nomination of Judge Irene Berger, who has now been confirmed as the first African-American Federal judge in the history of West Virginia. The Republican minority delayed consideration of her nomination for more than 3 weeks after it was reported unanimously by the Judiciary Committee. When her nomination finally came to a vote, it was approved by an overwhelming vote of 97–0. That follows the pattern that Republicans have followed all year with respect to President Obama's nominations. I expect Judge Davis to be confirmed by a bipartisan majority, but only after a 5-month stall.

Last year, with a Democratic majority, the Senate reduced circuit court vacancies to as low as 9 and judicial vacancies overall to as low as 34, even though it was the last year of President Bush's second term and a presidential election year. That was the lowest number of circuit court vacancies in decades, since before Senate Republicans began stalling Clinton nominees and grinding confirmations to a halt. In the 1996 session, the Republican-controlled Senate confirmed only 17 judges and not a single circuit court nominee. Because of those delays and pocket filibusters, judicial vacancies grew to over 100, and circuit vacancies rose into the mid-thirties.

When I served as chairman of the Senate Judiciary Committee during President Bush's first term, I did my best to stop this downward spiral that had affected judicial confirmations. Throughout my chairmanship, I made sure to treat President Bush's judicial nominees better than Republicans had treated President Clinton's nominees. In fact, during the 17 months I chaired the Judiciary Committee in President Bush's first term, we confirmed 100 of his judicial nominees. At the end of his Presidency, although Republicans had run the Judiciary Committee for more than half his tenure, more of his judicial nominees were confirmed when I was the chairman than in the more than 4 years when Republicans were in charge.

Instead of building on that progress, Senate Republicans are intent on turning back the clock to the abuses they engaged in during their years of resistance to President Clinton's moderate and mainstream judicial nomination. The delays and inaction we are seeing now from Republican Senators in considering the nominees of another Democratic President are regrettably familiar. Their tactics have resulted in a sorry record of judicial confirmations this year—less than a handful—with 10 judicial nominees currently stalled on the Senate Executive Calendar.

By November 9 in the first year of the Presidency of George W. Bush, the Senate had confirmed 17 circuit and district court judges, four circuit court nominees and 13 district court nominees. By contrast, Judge Davis is only the second circuit court nomination Republicans have allowed to be considered all year. When his nomination is confirmed, it will only bring the total to five—less than one third of what we had accomplished by this time in 2001. I know because in the summer of 2001, I began serving as the chair of the Judiciary Committee. We achieved those results with a controversial and confrontational Republican President after a mid-year change to a Democratic majority in the Senate. We did so in spite of the attacks of September 11; despite the anthrax-laced letters sent to the Senate that closed our offices; and while working virtually around the clock on the PATRIOT Act for 6 weeks. By comparison, this year, the Republican minority has this year allowed action on only four judicial nominations to the Federal circuit and district courts. Judge Davis will be the fifth, and only the second circuit court judge.

Now we face this. Look at the chart I have in the Chamber. It is outrageous what is happening, the few nominees they are allowing through. This is not for lack of qualified nominees. There are 10 such nominees who have been reported by the Judiciary Committee on the Senate Executive Calendar. Had those nominations been considered in the normal course we would be on the pace I set in 2001 when fairly considering the nominations of our last Republican President.

Even though as Democrats we treated President Bush far more fairly than they had treated President Clinton, even though we tried to turn back the clock from when there were 60 judges Republicans pocket-filibustered during President Clinton's time, even though in 17 months Democrats confirmed 100 of President Bush's nominations, it looks as though, as far as President Obama is concerned: President Obama nominates them, then they have to

stall them. Rather than continued progress, we see Senate Republicans resorting to their bag of procedural treats to delay and obstruct. They have ratcheted up the partisanship and seek to impose ideological litmus tests.

The obstruction and delays in considering President Obama's nominations is especially disappointing given the extensive efforts of President Obama to turn away from the divisive approach taken by the previous administration. He has reached out to Members of both parties to select mainstream, well-qualified nominees. I have been at some of those meetings. I know the job he has done in reaching out to both Democrats and Republicans.

In a recent column, Professor Carl Tobias wrote about President Obama's approach:

> Obama has emphasized bipartisan outreach, particularly by soliciting the advice of Democratic and Republican Judiciary Committee members, and of high-level party officials from the states where vacancies arise, and by doing so before final nominations. Obama has gradually, but steadily, put forward his nominees, typically naming a few on the same day. This approach compares favorably with the approach of the two prior administrations, which often submitted large packages on the eve of Senate recesses, thus complicating felicitous confirmation. To date, Obama has nominated 23 well-qualified consensus candidates, who are diverse in terms of ethnicity, gender and ideology. This is sufficient quantitatively and qualitatively to foster prompt confirmation.

I will ask that a copy of Professor Tobias's column be printed in the RECORD following my statement.

Professor Tobias makes this point well and it is substantiated by the bipartisan support from Republican home State Senators for the President's nominees. Indeed, since he made these observations the President has nominated two North Carolinians for vacancies on the Fourth Circuit after consulting with both Senator HAGAN and Senator BURR.

His first nomination of Judge David Hamilton of Indiana to the Seventh Circuit came to the Senate with the strong endorsement of Senator LUGAR, the senior Republican in the Senate. Senator LUGAR praised the ''thoughtful, cooperative, merit-driven'' process he and Senator BAYH took in consulting on that nomination. Despite the bipartisan endorsement from his home State Senators, Judge Hamilton's nomination is the subject of a Republican filibuster and has been stalled since it was reported to the Senate in June.

Federal judicial vacancies, which had been cut in half while George W. Bush was President have already more than doubled since last year. There are now 98 vacancies on our Federal circuit and district courts, including 22 circuit court vacancies. Justice should not be delayed or denied to any American because of overburdened courts, but that is the likely result of the stalling and obstruction.

Despite the fact that Senate Republicans had pocket filibustered President Clinton's circuit court nominees, Senate Democrats opposed only the most extreme of President Bush's ideological nominees and worked to reduce judicial vacancies. That had led to a reduction in vacancies in nearly every circuit during President Bush's administration. One of the circuits where we succeeded in reducing vacancies was the Fourth Circuit, the circuit to which Judge Davis has been nominated.

After Senate Republicans had refused to consider any of President Clinton's four Fourth Circuit nominees from North Carolina, vacancies on the Fourth Circuit had risen to five. All four of President Clinton's nominees from North Carolina to the Fourth Circuit were blocked from consideration by the Republican Senate majority. These outstanding nominees included United States District Court Judge James Beaty, Jr., United States Bankruptcy Judge J. Richard Leonard, Professor Elizabeth Gibson, and North Carolina Court of Appeals Judge James Wynn. Had either Judge Beaty or Judge Wynn been considered and confirmed, he would have been the first African-American judge appointed to the Fourth Circuit. The failure to proceed on those nominations was never explained. Indeed, Senate Republicans refused to consider any of President Clinton's highly qualified circuit court nominations from any of its States in the Fourth Circuit during the last 3 years of his administration. That resulted in five continuing vacancies.

What followed was an effort by President Bush to pack the Fourth Circuit with ideologues. He nominated a political operative from Virginia for a vacancy in Maryland who was caught stealing from a local store and pleaded guilty to fraud. There was his highly controversial nomination of William ''Jim'' Haynes II to the Fourth Circuit who as general counsel at the Department of Defense was an architect of many discredited policies on torture and who never fulfilled the pledge he made to me under oath at his hearing to supply the materials he discussed in an extended opening statement regarding his role in developing these policies and their purported legal justifications.

Mr. Haynes nomination led the Richmond Times-Dispatch to write an editorial in late 2006 entitled ''No Vacancies,'' about President Bush's counterproductive approach to nominations in the Fourth Circuit. The editorial criticized the administration for pursuing political fights at the expense of filling vacancies. According to the Richmond Times-Dispatch:

> The president erred by renominating . . . and may be squandering his opportunity to fill numerous other vacancies with judges of right reason.

President Bush insisted on nominating and renominating Terrence Boyle, despite the fact that as a sitting U.S. district judge and while a circuit court nominee, Judge Boyle ruled on multiple cases involving corporations in which he held investments. President Bush should have heeded the call of North Carolina Police Benevolent Association, the North Carolina Troopers' Association, the Police Benevolent Associations from South Carolina and Virginia, the National Association of Police Organizations, the Professional Fire Fighters and the Paramedics of North Carolina. Law enforcement officers from North Carolina and across the country opposed to the Boyle nomination. Civil rights groups opposed the nomination. Those knowledgeable and respectful of judicial ethics opposed the nomination. Ultimately, President Bush withdrew the Boyle nomination.

I mention these ill-advised nominations because so many Republican partisans seem to have forgotten the reasons these ideological nominations did not proceed.

We did break the logjam in North Carolina. I worked to break through the impasse and to confirm Judge Allyson Duncan of North Carolina to the Fourth Circuit when President Bush nominated her. From the summer of 2001 through 2002, I presided over the consideration and confirmation of three Fourth Circuit judges nominated by President Bush. And in the Presidential election year of 2008, one of the final appellate court judges confirmed by the Senate was another Fourth Circuit nominee. Despite the confrontational approach taken by President Bush and additional retirements on the Fourth Circuit, we ended up reducing the vacancies on the Fourth Circuit during the course of his administration.

Despite our good efforts, the right wing seems intent on repeating its mistakes of the past and obstructing President Obama's nominees to the Fourth Circuit. That appears to be why Judge Davis has been delayed for months. That appears to be why they are resisting consideration of the nomination of Justice Barbara Keenan from Virginia. And that appears to be why following the announcement last week of the nominations of Judge James Wynn and Judge Albert Diaz to Fourth Circuit vacancies, the head of a right wing group urged Republican Senators to obstruct the nominees saying: ''I will predict . . . that life will not be made easy for these two nominees'' the same way when the heads of the Republican Party said they should block Eric Holder for Attorney General, and they did. They delayed him for weeks. Finally, when we did get to vote, he got more votes than any of the last four Attorneys General.

The Senate is finally being allowed to consider Judge Davis's nomination. He has had a long and distinguished legal career. During the last 14 years, he served as Federal district judge in Maryland. He has been a State judge. He has been a Federal prosecutor. He received his bachelor's degree from the University of Pennsylvania. He graduated cum laude with his JD from the

University of Maryland School of Law, where he still teaches classes as an adjunct faculty member.

I congratulate Judge Davis and his family on what I know will be his confirmation. I apologize to him for these unnecessary delays for such a very fine man. I applaud the senior Senator from Maryland, Ms. MIKULSKI, and my Senate partner from Maryland, Mr. CARDIN, a member of the Senate Judiciary Committee, for their work.

Mr. President, I ask unanimous consent that a copy of the article by Professor Tobias to which I referred be printed in the RECORD.

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

WITH OBAMA PROCEEDING REASONABLY TO FILL FEDERAL JUDGESHIPS, THE BOTTLENECK IS THE SENATE

(By Carl Tobias)

A growing drumbeat of commentary has recently criticized President Barack Obama for not acting quickly enough to fill the 96 present vacancies on the federal appellate and district courts. However, as I shall explain, closer evaluation of the record compiled by President Obama shows that these criticisms are actually unwarranted, and that responsibility should more properly be assigned elsewhere. In particular, blame should now be placed at the Senate's door.

OBAMA'S APPROACH: GENERALLY A WISE AND GOOD ONE

Many observers have voiced numerous criticisms of Obama Administration judicial selection. Some have suggested that the President should nominate candidates more swiftly and in greater numbers. Others have criticized the nominees' age (saying they are too old), experience (saying there are too many judges among them), and ideological perspectives (saying they are too liberal or, in some instances, too conservative). A few observers have also compared the number of nominees (23) whom Obama has submitted with the number (95) whom President George W. Bush had submitted at the identical juncture of his administration.

Yet careful analysis of Obama's record shows that these criticisms lack merit. Before Obama won the election, he had already started planning for appointments. And when he was elected, Obama quickly installed as White House Counsel Gregory Craig, a respected attorney with much pertinent expertise, who immediately enlisted several talented lawyers to identify judicial designees. The administration also capitalized on Vice President Joseph Biden's four decades of Senate Judiciary Committee experience in the nomination process. Accordingly, the selection group anticipated and carefully addressed contingencies that might arise when choosing judges. For example, it compiled ''short lists'' of excellent candidates for possible Supreme Court vacancies, should one arise.

Obama has emphasized bipartisan outreach, particularly by soliciting the advice of Democratic and Republican Judiciary Committee members, and of high-level party officials from the states where vacancies arise, and by doing so before final nominations. Obama has gradually, but steadily, put forward his nominees, typically naming a few on the same day. This approach compares favorably with the approach of the two prior administrations, which often submitted large packages on the eve of Senate recesses, thus complicating felicitous confirmation. To date, Obama has nominated 23 well-qualified consensus candidates, who are diverse in terms of ethnicity, gender and ideology. This is sufficient quantitatively and qualitatively to foster prompt confirmation.

Often before, and invariably following, nominations, the administration and senators have cooperated. To facilitate approval of nominees, Obama worked closely with Senators Patrick Leahy (D-Vt.), the Judiciary Committee chair, who schedules hearings and votes, and Harry Reid (D-Nev.), the Majority Leader, who arranges floor consideration, and their GOP analogues, Senators Jeff Sessions (Ala.) and Mitch McConnell (Ky.).

Thus, the committee has swiftly assessed nominees, with thorough questionnaires and hearings and prompt votes. Indeed, Leahy convened hearings so fast that GOP members complained they lacked sufficient preparation time, and he quite reasonably responded with another session for a nominee.

THE REAL PROBLEM HERE LIES MORE WITH THE GOP SENATE MINORITY THAN THE PRESIDENT

The Democratic panel majority, thus, has expedited review, but the Republican minority has delayed processing. For instance, it routinely delays committee votes for a week with no or minimal explanation.

This recently happened with four California District Court nominees, three of whom the panel then unanimously approved. And, last week, Senator Sessions held over Virginia Supreme Court Justice Barbara Keenan, even though he had praised the jurist's qualifications at her hearing two weeks earlier and despite the fact that the U.S. Court of Appeals for the Fourth Circuit, to which she was nominated, desperately needs more judges, as the court is operating with five of its 15 judgeships vacant. In fairness, yesterday, Sessions explained that Keenan's responses to some GOP written questions were inadequate, but that she promptly furnished more complete answers that were satisfactory, again lauded the jurist as a ''fine nominee,'' and supported the panel decision to vote her out without objection.

The committee has approved 14 federal court nominees, and the real bottleneck has been Senate floor action. Of those 14 nominees, only five have received floor debate and confirmation; nine are pending without GOP consent to consider them. Senator Reid has attempted to cooperate with Senator McConnell and Republicans—but to no avail. For example, McConnell insisted that the Senate consider no lower court nominees until it had confirmed Supreme Court Justice Sonia Sotomayor, which delayed the process until September.

The unanimous consent procedure allows one senator to stop the entire body, and anonymous holds have delayed specific nominees' consideration. Reid has been reluctant to employ cloture, which forces votes, mainly because this practice wastes valuable floor time. However, on Tuesday, Reid took the unusual step of invoking cloture to secure a floor vote on Southern District of West Virginia Judge Irene Berger. She is the third uncontroversial judicial nominee on whom Reid has been forced to seek cloture. Indeed, the GOP has ratcheted up the stakes with the unprecedented action of placing holds on noncontroversial nominees.

OBAMA'S NOMINATION RECORD THUS FAR IS STRONG GIVEN UNUSUAL CIRCUMSTANCES

The fact that Obama has nominated only 23 persons thus far to fill federal judgeships is not attributable to the White House or the Senate majority. Nor is the fact that of these, the Senate has confirmed only four lower court nominees. Justice David Souter's May resignation meant that filling his vacancy was a top priority, and that process consumed three months, during which lower court selection had to be temporarily frozen. The administration has, of course, also encountered the ''start-up'' costs of instituting a new government. Cabinet appointments consumed months, and the Senate has yet to confirm several Assistant Attorneys General nominees and many of the 93 U.S. Attorney nominees. There has also been a pressing need for the Obama Administration to address myriad intractable complications left by earlier administrations, such as the deep, continuing recession; Guantanamo; and the Iraq and Afghanistan conflicts.

For all these reasons, recent criticisms of President Obama for submitting judicial nominees too slowly are unfounded. Nor should the Senate Judiciary Committee majority be blamed: The panel majority has expedited its nominee processing, but the minority's virtually automatic reliance on holds has caused some delay. The true bottleneck, however, has been the nearly complete lack of floor consideration.

Senate Republicans must stop delaying floor action on the President's well-qualified nominees—nominees who typically have the blessing of the relevant states' senators. And, if Republicans in the Senate continue to delay, Senate Democrats should invoke cloture and related practices that will facilitate expeditious approval of Obama's nominees.

Mr. LEAHY. I yield back the remainder of my time and ask for the yeas and nays.

The PRESIDING OFFICER. The majority leader.

Mr. REID. I will use some leader time here to explain to everyone where we are.

At 10 o'clock in the morning when we come into session, there will be a moment of silence in honor of the soldiers and the civilians who were killed at Fort Hood.

I am working now with the Republicans to see if we can come up with an agreement to finish Military Construction. I would like to finish it tomorrow. It appears that it may not be doable, but we are going to have votes tomorrow unless we can work something out to complete the legislation on Monday.

If we can complete the legislation on Monday, the Military Construction legislation, part of the agreement has to be something with Judge Hamilton. Here is a man who has waited since April. We have agreed to give the Republicans all the time they want—if they want 30 hours to talk about him beforehand or 5 hours before and after—but we can't work out anything that satisfies them. So it appears we can only do cloture, which is such a shame. But that is fine. We are going to have to work something out as an agreement; otherwise, we will have to have some votes tomorrow. I know we have on this side a couple of Senators who, if there are no votes, would go down to Texas. We have KAY BAILEY HUTCHISON, who is the manager of the bill, who will not be here, but there are other people on the subcommittee who could do the bill. I hope we can work something out, but, as we have learned during this Congress, it is very difficult to work things out.

We are going to have votes Monday, a week from today, in the morning. Everyone should understand that. Monday, a week from today, we will have votes in the morning. We have to do that. The next week is Thanksgiving. We are going to get on health care the week we come back before Thanksgiving. We are going to at least give it our utmost to get on that bill.

We have a number of things that are very important. We have to do the highway bill. The day after tomorrow is Veterans Day. We have a number of veterans bills the Republicans have held up. They are bills dealing with homeless veterans, among other things. They are important pieces of legislation. Four or five of them are being held up. We put those together under rule XIV, and we are going to have a vote on them in the future. It is a shame that on Veterans Day we are not legislating for the veterans, but we have been held up doing lots of things.

I hope we can work something out with the Republicans so we can complete the Military Construction bill, if not tomorrow, then on Monday, but we are not going—this isn't going to go over for many hours. I have asked to work something out. I hope we don't have to file cloture on this bill.

I will tell everyone, I quite doubt that I am going to file cloture on Military Construction. If the Republicans don't want us to do that bill, then we will just do it some other time. It is Military Construction, an extremely important piece of legislation. In years past, we have done that bill in an hour. I can remember when DIANNE FEINSTEIN and KAY BAILEY HUTCHISON were managing that bill and we did that bill in an hour. Over the years—Senator LEAHY is on the floor, a longtime member of the Appropriations Committee—this was not something to send political messages on. It was a bill to do something to help our military, to build new bases, new recreation facilities, to renovate and repair facilities around the world.

So we have the situation here where it doesn't matter what we bring up, the Republicans stall it for time. That is why Senator STABENOW has been here with her charts indicating the—I think we are up to 87 now, or something like that—things they have held up in this Congress.

So I hope we can work something out so we don't have to have votes tomorrow, but I don't need the permission of the Republicans to have votes tomorrow. We can have votes on amendments that are offered by Democrats.

We are going to have a moment of silence. Everyone recognizes the tragedy of the event, and we want to be as positive as possible.

I hope we can work something out. I have two Democrats who have indicated they want to go, both freshman Senators, which doesn't matter—they have a right to go just as do senior Members of the Senate—and three Republicans have indicated they would like to go. I hope that is possible. They can go, I won't stop them from going, but we may have votes.

Mr. LEAHY. Madam President, would the Senator yield?

Mr. REID. I will be happy to yield.

Mr. LEAHY. I agree so much with our leader about the appropriations bills. I see the distinguished chairman of the Appropriations Committee, Senator INOUYE of Hawaii, on the Senate floor. He is the only person standing on this floor who has served longer in this Senate than I have. I have been on that committee for 35 years. These are things that are always done. Whether it is a Republican majority or a Democratic majority, they have always been done, almost in a pro forma fashion. If somebody wants to vote against it, they can vote against it. But with all of the tremendous bipartisan work that is done in the Appropriations Committee—nobody has worked harder than the chairman of the Appropriations Committee. Nobody has worked harder than he has to get a bipartisan bill to the floor. To have it delayed, especially Military Construction, especially matters that help our military at a time when they desperately need it, to have that held up just makes no sense. I share the leader's frustration.

I want to note for the record that nobody has worked harder to get a bipartisan bill on the floor than the chairman of the Senate Appropriations Committee. In years past, that would go through in no time at all. I cannot understand this kind of partisanship.

I yield the floor.

Mr. REID. I say to my friend, the distinguished Senator from Vermont, I didn't see the chairman on the floor. Everything my friend from Vermont said about the Senator from Hawaii is true, and then multiply it by 10. Here is a man who has lived the military—a Medal of Honor winner, an amputee. There is not a more bipartisan person in the whole body than Senator INOUYE from Hawaii.

In short, everyone here understand: Monday, a week from tomorrow, no matter what happens tomorrow, we are going to have votes in the morning. We have just a short week until Thanksgiving and we have a lot to do, including health care.

I ask for the yeas and nays.

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

The Senator from Alabama is recognized.

Mr. SESSIONS. Madam President, I also assume we will soon be voting on Judge Honeywell for the U.S. district court in Florida. I enjoyed the dialog I had with her during the confirmation hearings. I was pleased to see good responses to questions for the record. She has served as an assistant public defender and an assistant city attorney, an associate and partner in a law firm, as well as both a county court judge and a State circuit court judge. I will be supporting her nomination.

I wish to note that when I asked her about what role empathy should play in deciding cases, she said:

Empathy does not play role in my consideration of cases. Presently, I decide cases by applying the law to the facts of the cases pending before me. If confirmed by the Senate to serve as a District Court judge, I will decide cases in the same manner.

I would expect, as I did for President Clinton, to vote for well over 90 percent of the nominees who are submitted by the President. I hope to be able to do that for President Obama. But I will say, for the reasons I gave earlier, I must oppose Judge Davis.

I ask unanimous consent that an article written by Larry Margasak from the Associated Press, dated Monday, November 9, 2009, be printed in the RECORD.

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

DEMOCRATS HAVE SHORT MEMORY ON JUDGE NOMINEES

(By Larry Margasak)

Ten months into Barack Obama's presidency, Democrats are accusing Republicans of creating ''a dark mark on the Senate'' by delaying confirmation of his federal court nominees.

The mark might not be as dark as Democrats make it seem.

Of the 27 judicial nominations Mr. Obama has made so far, all five brought up for votes in the Senate have won relatively quick confirmations, including new Supreme Court Justice Sonia Sotomayor.

So what is this ''dark mark'' that Senate Judiciary Committee Chairman Patrick J. Leahy, Vermont Democrat, talks about?

It's primarily two federal judges—one from Indiana, the other Maryland—who've been waiting five months for Senate Majority Leader Harry Reid, Nevada Democrat, to bring their nominations for appeals court promotions to the Senate floor.

Republicans contend that the nominees are activist judges, and Mr. Reid hasn't forced the issue—although he said Wednesday that he might do so by Veterans Day for at least one of the nominees.

One other nominee has been waiting since Sept. 10. But seven others have been waiting from only one to five weeks. That's not a long time for the Senate, which prides itself as a deliberative body, and Republicans say they're ready to vote on most of them.

Democrats have a record of their own that is far from being a bright light. Just three years ago, they were blocking votes on some of President George W. Bush's more conservative judicial nominees.

Several of Mr. Bush's nominees waited for years—two years for eventual Supreme Court Chief Justice John G. Roberts Jr. when he was nominated for an appellate court post.

Priscilla Owen waited through four years of Democratic blocking tactics before she was confirmed for the New Orleans-based federal appeals court. Miguel Estrada withdrew his bid for an appellate seat after a Democratic filibuster lasting more than two years.

As an institution that lets the minority party use rules to block legislation and nominations, the Senate often acts as a filter for preventing the more politically strident bases of each party from tilting the judicial branch too much one way or the other.

Although moderate nominees win confirmation easily, both parties use what is essentially the same argument to block or at

least delay action on others: The particular nominee would substitute his or her own liberal or conservative philosophy for the law and the Constitution.

''It would be wrong for us to be a rubber stamp for each nominee,'' Sen. Jeff Sessions of Alabama, the senior Republican on the Judiciary Committee, said in a recent confirmation dustup in the Senate.

That sounds familiar.

After Mr. Estrada gave up, Sen. Edward M. Kennedy, Massachusetts Democrat, said, ''This should serve as a wake-up call to the [Bush] White House that it cannot simply expect the Senate to rubber-stamp judicial nominations.''

The Republican stall at this point is focused on two appellate court judges whose nominations were sent by the Judiciary Committee to the full Senate on June 4:

David Hamilton of Indiana, a U.S. district judge and nephew of former Democratic Rep. Lee H. Hamilton, chosen for the Chicago-based appeals court.

Mr. Reid said he wants a vote on Judge Hamilton by Veterans Day. He'll probably need a supermajority of 60 to get one.

Judge Andre Davis, a district judge in Maryland, nominated for a seat on the appellate court headquartered in Richmond.

Mr. Sessions made it clear that his party will put up a fight against confirming either. He cited Judge Hamilton's position in the late 1980s as a vice president for litigation and board member of the Indiana chapter of the American Civil Liberties Union. Mr. Sessions also complained about Judge Hamilton's judicial rulings.

''Instead of embracing the constitutional standard of jurisprudence, Judge Hamilton has embraced this 'empathy' standard, this 'feeling' standard. Whatever that is, it is not law. It is not a legal standard,'' Mr. Sessions said.

In Judge Davis' case, Mr. Sessions made the delay sound like a payback to Democrats, although he denied that was his purpose.

''We have had a number of battles over the failure to fill some of the vacancies on that court,'' Mr. Sessions said, referring to stalls of Mr. Bush's nominees for the Richmond-based appeals court—once known for its conservatism.

Mr. Sessions said Republicans have a problem with only one other current nominee before the Senate: Edward Chen, chosen for a U.S. district court seat in California. But Mr. Chen's nomination was only approved by the committee on Oct. 15, hardly enough time to make the case for a stall.

''Most of the nominees . . . will go through in an expeditious manner,'' Mr. Sessions said. He said Republicans are ready to support Beverly Martin, nominated for the Atlanta-based appeals court, but Democrats have not scheduled a vote. Her nomination reached the full Senate Sept. 10.

In the Senate's five judicial confirmation votes this year, only Justice Sotomayor generated significant Republican opposition, and she was approved 68–31.

Mr. SESSIONS. I thank the Chair and yield the floor.

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the nomination of Andre M. Davis, of Maryland, to be United States circuit judge for the Fourth Circuit?

The yeas and nays have been ordered.

The clerk will call the roll.

The assistant bill clerk proceeded to call the roll.

Mr. DURBIN. I announce that the Senator from West Virginia (Mr. BYRD), the Senator from North Dakota (Mr. DORGAN), the Senator from Massachusetts (Mr. KERRY), and the Senator from Florida (Mr. NELSON) are necessarily absent.

Mr. KYL. The following Senators are necessarily absent: the Senator from Missouri (Mr. BOND), the Senator from North Carolina (Mr. BURR), the Senator from Georgia (Mr. CHAMBLISS), the Senator from Texas (Mr. CORNYN), the Senator from New Hampshire (Mr. GREGG), the Senator from Texas (Mrs. HUTCHISON), the Senator from Georgia (Mr. ISAKSON), and the Senator from Idaho (Mr. RISCH).

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

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

The result was announced—yeas 72, nays 16, as follows:

[Rollcall Vote No. 342 Ex.]

YEAS—72

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

NAYS—16

Barrasso	Ensign	Sessions
Brownback	Enzi	Shelby
Bunning	Grassley	Thune
Coburn	Inhofe	Vitter
Crapo	Johanns	
DeMint	Roberts	

NOT VOTING—12

Bond	Cornyn	Isakson
Burr	Dorgan	Kerry
Byrd	Gregg	Nelson (FL)
Chambliss	Hutchison	Risch

The nomination was confirmed.

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

(At the request of Mr. REID, the following statement was ordered to be printed in the RECORD.)

VOTE EXPLANATION

● Mr. KERRY. Madam President, I was necessarily absent for the vote on the confirmation of Andre Davis to the Fourth Circuit. If I were able to attend today's session, I would have voted for his confirmation.●

NOMINATION OF CHARLENE EDWARDS HONEYWELL TO BE UNITED STATES DISTRICT JUDGE FOR THE MIDDLE DISTRICT OF FLORIDA

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to the consideration of the Honeywell nomination, which the clerk will report.

The assistant legislative clerk read the nomination of Charlene Edwards Honeywell, of Florida, to be United States District Judge for the Middle District of Florida.

Mr. LEAHY. Madam President, Judge Charlene Edwards Honeywell has been nominated to serve on the U.S. District Court for the Middle District of Florida. Judge Honeywell's confirmation has been needlessly delayed. Judge Honeywell is a longtime State judge, last appointed by former Republican Governor Jeb Bush. She was one of three district court nominees reported by the Judiciary Committee on October 1 without dissent. Yet Senate consideration has been delayed for 5 weeks.

After a 3-week wait, the Senate was allowed to consider the nomination of Roberto Lange, who was confirmed by the Senate 100 to 0—unanimously—to serve on the U.S. District Court for the District of South Dakota after 2 hours of floor debate during which no Senator spoke in opposition. After a 4-week wait, the Senate was allowed to consider the nomination of Irene Cornelia Berger, who was confirmed by a vote of 97 to 0 to serve on the U.S. District Court for the Southern District of West Virginia after an hour of floor debate during which no Senator spoke in opposition. After more than 5 weeks, the Senate today finally considers the nomination of Judge Honeywell, and I expect a similar result.

At the conclusion of the hearing to consider these nominations, Senator SESSIONS, the committee's ranking member, said:

> It's a great honor that you've been given to be nominated and I expect things should go forward in a timely manner. I don't believe that any of you need to be held up based on what I know at this time. So, we'd like to see you get your vote as soon as reasonably possible.

I have been disappointed by Republican delays in bringing these well-qualified, noncontroversial nominees to a vote in the full Senate.

Judge Honeywell first served as a State court judge in 1994, and in 2001 was appointed by Gov. Jeb Bush to serve as a State circuit court judge. Her legal career also includes working in private practice, serving as an assistant city attorney and as an assistant public defender. She was unanimously rated ''well-qualified'' by the American Bar Association's Standing Committee on the Federal Judiciary, the committee's highest rating. She received the bipartisan support of Florida Senators BILL NELSON and Mel Martinez.

The Senate must restore its tradition of regularly considering qualified, noncontroversial nominees to fill vacancies on the Federal bench without needless and harmful delays. This is a tradition followed with Republican Presidents and Democratic Presidents.

I congratulate Judge Honeywell and her family on her confirmation today.

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the nomination of Charlene Edwards Honeywell, of Florida, to be United States District Judge for the Middle District of Florida?

Mr. CONRAD. 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 assistant legislative clerk called the roll.

Mr. DURBIN: I announce that the Senator from West Virginia (Mr. BYRD), the Senator from North Dakota (Mr. DORGAN), the Senator from Massachusetts (Mr. KERRY), and the Senator from Florida (Mr. NELSON) are necessarily absent.

Mr. KYL. The following Senators are necessarily absent: the Senator from Missouri (Mr. BOND), the Senator from North Carolina (Mr. BURR), the Senator from Georgia (Mr. CHAMBLISS), the Senator from Texas (Mr. CORNYN), the Senator from New Hampshire (Mr. GREGG), the Senator from Texas (Mrs. HUTCHISON), the Senator from Georgia (Mr. ISAKSON), and the Senator from Idaho (Mr. RISCH).

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

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

The result was announced—yeas 88, nays 0, as follows:

[Rollcall Vote No. 343 Ex.]

YEAS—88

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

NOT VOTING—12

Bond	Cornyn	Isakson
Burr	Dorgan	Kerry
Byrd	Gregg	Nelson (FL)
Chambliss	Hutchison	Risch

The nomination was confirmed.

The PRESIDING OFFICER. Under the previous order, the President will be immediately notified of the Senate's action.

(At the request of Mr. REID, the following statement was ordered to be printed in the RECORD.)

VOTE EXPLANATION

● Mr. KERRY. Madam President, I was necessarily absent for the vote on the confirmation of Charlene Edwards Honeywell to be U.S. District Judge for the Middle District of Florida. If I were able to attend today's session, I would have voted for her confirmation.●

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will resume legislative session.

The Senator from Oklahoma.

MILITARY CONSTRUCTION, VETERANS AFFAIRS, AND RELATED AGENCIES APPROPRIATIONS ACT 2010—Continued

Mr. INHOFE. Madam President, it was my intention to ask unanimous consent to lay the pending amendment aside for consideration of amendment No. 2758. However, I will not make that request right now. It is my understanding, however, and I ask unanimous consent, that I be recognized for up to 7 minutes as in morning business.

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

Mr. INHOFE. Madam President, it is my intention to go ahead in the morning and get this amendment in the queue. This amendment, No. 2758, is a simple, one-page amendment, and I will read the amendment because there has been a lot of confusion as to what is happening down at Guantanamo Bay. Amendments have been introduced to withhold funds from construction, to withhold the opportunities for people to come to the United States, but this is a simple, one-page amendment which states the following:

None of the funds appropriated or otherwise made available by this act or any prior act may be used to construct or modify a facility or facilities in the United States or its territories to permanently or temporarily hold any individual who was detained as of October 1, 2009, at Naval Station Guantanamo Bay.

Some may ask: Why are we adding another Gitmo amendment? Hasn't everything been covered by previous amendments? The answer is clearly no. In 2007, the Senate voted 94 to 3 on a resolution declaring:

Detainees housed at Guantanamo should not be released into American society, nor should they be transferred stateside into facilities in American communities and neighborhoods.

Then, on May 20, 2009, the Senate passed my bipartisan amendment with Senator INOUYE to the war supplemental bill prohibiting the transfer, release or incarceration of Gitmo detainees in the United States or its territories. It passed 90 to 6.

Senator INOUYE stated:

We have not provided funding for the closure of Guantanamo because the administration has yet to produce a credible plan.

Unfortunately, the supplemental conference deleted that language, allowing detainees to be transferred or transported to the United States for trial.

Then, in October of 2009, the Senate voted 97 to 3 to pass the fiscal year 2010 Senate Defense appropriations bill that included language that prevents funding for any transfers, releases or incarcerations of Gitmo detainees to the United States through fiscal year 2010. The bill is in conference now, and we don't know what is going to be happening to it.

On October 28, 2009, the fiscal year Defense authorization and Homeland Security bills were signed into law that would allow transfer of detainees 45 days after the President provides a plan.

That is kind of where we are right now. This amendment will put the MILCON–VA bill into sync with previous authorizations and appropriations of the bill. So I will be trying to get this in and trying to get it passed. I will not go into any of the details.

I could probably talk for 3 hours on this floor, explaining why it is we should not give up this valuable asset called Gitmo. There is no place else to send these people, and I cannot imagine why there are some people, including the President, who seem to be bent on bringing those detainees into the United States. They have tried Fort Leavenworth, they have tried Fort Sill in Oklahoma, and some 31 States have now passed legislation saying they are not going to be in any of their facilities. So I don't think it is going to happen, but we need to get language in there that is consistent to make sure we keep that resource open.

By the way, this is one of the rarer resources that is very worthwhile. We have had this since 1907, and there is no place else in the world that is set up to both incarcerate and try detainees in a military court.

With that, I yield the floor.

The PRESIDING OFFICER. The Senator from Hawaii is recognized.

UNANIMOUS-CONSENT REQUEST—S. 1963

Mr. AKAKA. Madam President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 190, S. 1963, at a time to be determined by the majority leader following consultation with the Republican leader, and that when the bill is considered, it be under the following limitations: that general debate on the bill be limited to 60 minutes equally divided and controlled between the chair

and the ranking member of the Veterans' Affairs Committee or their designees; that the only amendments in order be six first-degree germane amendments, three each for the majority manager or his designee, and Senator COBURN; that debate on each amendment be limited to 40 minutes, equally divided and controlled in the usual form; that upon disposition of all amendments and the use or yielding back of all time, the bill as amended, if amended, be read a third time and the Senate then proceed to vote on passage of the bill with no further intervening action or debate.

The PRESIDING OFFICER. Is there objection?

Mr. INHOFE. Reserving the right to object, first of all, let me tell my good friend from Hawaii that I personally have no objection to the bill; however, I have been informed there are Members on our side who want to work out something. They feel very confident they will be able to work it out with the Senator, but for the purpose of today, to this unanimous-consent request, I have to object.

The PRESIDING OFFICER. Objection is heard.

The Senator from Rhode Island is recognized.

MORNING BUSINESS

Mr. WHITEHOUSE. Madam President, I ask unanimous consent that we go into a period of morning business, with Senators permitted to speak for up to 10 minutes.

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

TRIBUTE TO CLAIR EARL

Mr. REID. Madam President, I wish today to honor Clair Earl for his service to the people of Nevada. Very few people enjoy the privilege of servicing their community in both their professional and personal pursuits. Yet Mr. Earl has labored diligently for over 40 years as a dentist and as an ecclesiastical leader in Reno.

Clair was born in Overton, NV, and raised on a farm in Moapa Valley. Clair graduated from the University of Nevada—Reno, where he was the student body president his senior year, and did graduate studies at Brigham Young University. Mr. Earl also has degrees from Portland State University and the University of Oregon Dental School.

Professionally Clair Earl has practiced as a dentist in Reno since 1964. Over his 45 years of work he has gained a reputation as not only an excellent businessman, but also as a caring health professional to his community. He has spent these many years providing his patients with a high degree of service which has not gone unnoticed.

Clair Earl has a strong love for his family. His wife is the former Mildred Meyer, and they were married in Logan, UT. They have 11 children and 50 grandchildren. All seven sons are Eagle Scouts. Eight of the children and seven of the spouses have served missions for the Church of Jesus Christ of Latter-day Saints. Earl should be proud of the job that he did as a parent raising these future leaders of the country.

Earl's values as a member of the Church of Jesus Christ of Latter-day Saints are the solid foundation for his life and family. Clair has been a force for much good among the LDS community in northern Nevada. He has served as a bishop, a counselor in the Reno Nevada Stake, and also as the church director of public affairs for northern Nevada. Currently, Clair Earl is serving as the president of the Reno Nevada Stake. This is a calling of great magnitude, considering that President Earl leads over 4,000 members of the church and does so without any pay or reimbursement for time. This great act of service is a tribute to the man that President Earl is and the strength of his convictions to bless the lives of others. Clair Earl is to be released from this calling on November 15, 2009, after serving 9 years in this capacity.

Brigham Young, prophet of the Church of Jesus Christ of Latter-day Saints and former Governor of Utah, once said, ''We want men to rule the nation who care more for and love better the nation's welfare than gold and silver, fame or popularity.'' I feel confident that Clair Earl fits Young's definition of men who truly service this great Nation. I wish him all the best as he continues his service to the people of northern Nevada.

TRIBUTE TO ROBERT LARSEN BRAY

Mr. REID. Madam President, today I wish before the Senate to honor Robert Larsen Bray. Although he is not a resident of my home State of Nevada, his lifetime of service has been exemplary and is worthy of our attention. On October 30, 2009, Bob officially retired from his position as chief information officer for the Texas Department of Criminal Justice. This retirement marks the end of a career in public service that has been nothing short of monumental.

Bob was blessed to come from a wonderful family. Like me, Bob was born the son of a hard-working man who went to great lengths to provide for his family. Vern Bray, Bob's father, worked as a blast furnace operator, a gold miner, and also as a builder on the Hoover Dam, which is one of Nevada's prized possessions. Bob's mother, Myrl, instilled in her children a desire to learn and gain education. Three of her children went on to become outstanding educators, two of which did so in Nevada. My friend and Bob's oldest brother, Lawrence, was a longtime teacher in Las Vegas.

Together with his wife and best friend, Maryann, Bob has raised a great family of his own. Over their 43 years of marriage they have raised nine children five girls and four boys. Their seven married children have provided the Brays with 20 grandchildren. Although it was difficult at times to provide and care for such a large family, the Brays fostered in their children an ardent work ethic and firm resolve to help their fellow man. I have witnessed firsthand the good they have bestowed upon their children, as my legislative correspondence manager, Vaughn Bray, is their eighth child.

Much like his father, Bob has worked hard his whole life. At a young age he learned to keep working until the job was finished, an unpleasant notion when faced with the task of picking beets or cleaning irrigation ditches. As a man, Bob worked full-time at night for the defense contractor Hercules in order to pay for his education at the University of Utah. Later, Bob would attain a master's in public administration at Texas Tech University in much the same way.

In order to provide for his family, Bob's work took him from Utah to Texas to New York to New Mexico and, finally, back to Texas. He has worked in some form of government for over 25 years. Most notably, he served as the director of planning at Texas Tech University in Lubbock, TX, and more recently as chief information officer for the Texas Department of Criminal Justice in Huntsville, TX.

Throughout his life Bob has been a dedicated member of the Church of Jesus Christ of Latter-day Saints. As a 19-year-old, he served as a missionary in Canada under the direction of the current president of the LDS Church, Thomas S. Monson. He has gone on to serve in the church as a branch president, bishop, Stake president, and mission president in Nashville, TN. In these years of retirement that are soon to follow, Bob and Maryann are eager to continue to serve in any capacity possible. Bob has stated that if he has his way, the Brays will serve 10 more missions.

Although Bob had many duties at the home, office, and church, he still found time to serve his community. He and his wife labored as PTA presidents while their children were in elementary school. Bob has worked as a leader in the Boy Scouts, as a board member of the Lubbock, TX, Civic Center, and as a volunteer during Hurricane Rita. Politically, he has been involved on the local level of the Democratic Party, and even worked on the campaign of former Texas Congressman Kent Hance, the only politician ever to defeat former President George W. Bush in an election.

As his career comes to an end, it is safe to say that Robert Bray will not resign himself to a life of golf and afternoon naps. Old habits cannot be broken, and Bob Bray is a worker. I have no doubt that he will continue to labor diligently to improve his community and to make life a little better for

those around him. I wish him all the best in his retirement, and sincerely hope that the next generation of Americans contains a few Bob Brays.

BICENTENNIAL OF DR. EPHRAIM McDOWELL'S HISTORIC SURGERY

Mr. McCONNELL. Madam President, the Commonwealth of Kentucky has many heroes. Yet only two have been granted significant prominence to have their likeness stand on permanent display within the halls of the U.S. Capitol building.

The Great Compromiser, Henry Clay, is one of those who have earned such distinction. And the second statue recognizes the contributions of Dr. Ephraim McDowell to modern medicine. While his might not be a household name, Dr. McDowell's contribution to surgical procedure is nonetheless momentous, making him one of only two Kentuckians in history to be recognized in the Capitol.

It was 200 years ago that Dr. McDowell performed the world's first successful ovariotomy. What Mrs. Jane Todd Crawford of Green County, KY, mistook for twins, Dr. McDowell correctly diagnosed as a 22-pound ovarian tumor.

Mrs. Crawford begged Dr. McDowell to prevent her from dying a slow and painful death. The young doctor explained that her only option was to have experimental surgery, and he went further in explaining that none who had previously undergone such surgery had survived. Undeterred, Mrs. Crawford pressed Dr. McDowell to perform the surgery and made the 60-mile horseback ride to Danville, KY, on December 13, 1809.

By the end of the 25-minute procedure, which was performed without anesthetic, Mrs. Crawford's tumor had been removed and she was able to make an uncomplicated recovery. She would go on to live another 32 years. In time, Dr. McDowell would go on to perform nearly a dozen more such procedures, and his meticulous notes of performing a successful abdominal surgery would be reviewed and taught on two continents.

In those notes, he wrote about his first success:

> Having never seen so large a substance extracted, nor heard of an attempt, or success attending any operation such as this required, I gave to the unhappy woman information of her dangerous situation. The tumor appeared full in view, but was so large we could not take it away entire. We took out fifteen pounds of a dirty, gelatinous-looking substance. After which we cut through the fallopian tube, and extracted the sac, which weighed seven pounds and one-half. In five days I visited her, and much to my astonishment found her making up her bed.

Madam President, it is not just Mrs. Crawford who owes a debt of gratitude to Dr. Ephraim McDowell. Indeed, because of his efforts and courage, the entire field of medicine made great advancements and society as a whole is the better. With the bicentennial of this remarkable accomplishment soon approaching, I thought it fitting for us to take a moment and remember this man who Kentucky rightfully honors with a place in the U.S. Capitol.

COMMERCE, JUSTICE, SCIENCE APPROPRIATIONS

ECONOMIC DEVELOPMENT ADMINISTRATION

Mr. BROWN. Madam President, I would like to engage my colleague, the Senator from New York, in a colloquy.

I would first like to take this opportunity to commend Senator MIKULSKI and Senator SHELBY and their hard working staff for crafting a responsible, commonsense funding measure, the Commerce, Justice, Science, and Related Agencies Appropriations Act, 2010.

I would like to highlight one piece of this bill, and that is the funding allocation for the Economic Development Administration. Madam President, the country is facing the highest unemployment rate we have seen in more than 20 years. There are too many hard-working Americans without a paycheck.

Mrs. GILLIBRAND. That is true in my State, as I know it is in the Senator's. Last week, the Labor Department reported 263,000 more jobs lost in September, leaving 15.1 million workers unemployed. The number of underemployed is even greater.

Funds for EDA are critical to our economic recovery, especially funds for Economic Adjustment Assistance, which is more flexible spending that enables EDA to respond quickly and forcefully to regions hit with an economic catastrophe.

Mr. BROWN. I agree with Senator GILLIBRAND that the Economic Adjustment Assistance account is critical for responding to sudden and severe economic hardship in a region. One proven strategy for economic development in these regions is business incubators.

In Ohio, there are more than 30 business incubators that help foster regional economic development and spur small business expansion. Recent studies show that business incubators are an effective public-private approach that produces new jobs at a low cost to the government.

Mrs. GILLIBRAND. Yes, I thank the Senator. In fact, a 2008 study conducted for the Economic Development Administration found that for every $10,000 in EDA funds invested in business incubators, an estimated 47–69 local jobs are generated. In rural areas, business incubator projects are the most effective type of EDA project.

The National Business Incubation Association, NBIA, estimates that in 2005 business incubators supported more than 27,000 start-up companies providing full-time employment to more than 100,000 workers—generating more than $17 billion in annual revenue.

NBIA also points to research showing that every dollar of Federal funds devoted to a business incubator generates approximately $30 in local tax revenue.

Mr. BROWN. I was proud to introduce with the Senator the Business Incubator Promotion Act last month, which defines the types of incubator services proven to be most effective, and targets Federal funds to the most economically distressed regions.

It is my understanding that the CJS appropriations legislation provides $200 million to EDA, with $90 million of that to Economic Adjustment Assistance. I would like to see an additional $20 million in this account to promote the revitalization of economically distressed communities and encourage the development of business incubators. This increase would mean jobs—for Ohio, New York, and for other States with high unemployment.

Mrs. GILLIBRAND. I understand the administration would also like to see these funds increased. In fact, in the Statement of Administration Policy issued for the CJS Appropriations measure, the administration urges Congress to provide increased funding to fully implement the administration's proposals to promote regional innovation clusters and create a business incubator network.

Mr. BROWN. I would like to join Senator GILLIBRAND in working with Senator MIKULSKI and Senator SHELBY in boosting these funds. Now more than ever, Congress must give EDA the tools to help entrepreneurs drive the economic revitalization of towns, cities, and regions all across Ohio, New York, and the country. The CJS Appropriations is an important step, one upon which to build.

Again, I commend the work of Senator MIKULSKI and Senator SHELBY and look forward to working with them to increase funding for EDA in conference.

AMENDMENT NO. 2669

Mr. GRAHAM. Madam President, I am disappointed that on November 5, 2009, the Senate voted to table my amendment to prohibit the use of funds to prosecute individuals involved in the September 11, 2001, attacks in article III courts. As I stated at the time of the vote, it would be a grave mistake to prosecute these detainees in civilian court instead of the newly revamped military commissions.

Two hundred forty-nine family members of the victims of the September 11 attacks wrote a letter in support of my amendment. They know better than anyone that the attacks that took their loved ones were war crimes and that criminalizing this war would be dangerous and unwise.

I would like to submit their letter in support of my amendment for the record, and I would like to give a special thanks to Debra Burlingame for her leadership on this issue. While I am disappointed in the vote on this amendment, I hope that in the future we will heed the counsel of those who lost the most in the terrible attacks on our country—the family members of 9/11 victims.

NOVEMBER 5, 2009.

U.S. SENATE,
U.S. Capitol,
Washington, DC.

DEAR SENATORS: On September 11, 2001, the entire world watched as 19 men hijacked four commercial airliners, attacking passengers and killing crew members, and then turned the fully-fueled planes into missiles, flying them into the World Trade Center twin towers, the Pentagon and a field in Shanksville, Pennsylvania. 3,000 of our fellow human beings died in two hours. The nation's commercial aviation system ground to a halt. Lower Manhattan was turned into a war zone, shutting down the New York Stock Exchange for days and causing tens of thousands of residents and workers to be displaced. In nine months, an estimated 50,000 rescue and recovery workers willingly exposed themselves to toxic conditions to dig out the ravaged remains of their fellow citizens buried in 1.8 million tons of twisted steel and concrete.

The American people were rightly outraged by this act of war. Whether the cause was retribution or simple recognition of our common humanity, the words ''Never Forget'' were invoked in tearful or angry rectitude, defiantly written in the dust of Ground Zero or humbly penned on makeshift memorials erected all across the land. The country was united in its determination that these acts should not go unmarked and unpunished.

Eight long years have passed since that dark and terrible day. Sadly, some have forgotten the promises we made to those whose lives were taken in such a cruel and vicious manner.

We have not forgotten. We are the husbands and wives, mothers and fathers, sons, daughters, sisters, brothers and other family members of the victims of these depraved and barbaric attacks, and we feel a profound obligation to ensure that justice is done on their behalf. It is incomprehensible to us that members of the United States Congress would propose that the same men who today refer to the murder of our loved ones as a ''blessed day'' and who targeted the United States Capitol for the same kind of destruction that was wrought in New York, Virginia and Pennsylvania, should be the beneficiaries of a social compact of which they are not a part, do not recognize, and which they seek to destroy: the United States Constitution.

We adamantly oppose prosecuting the 9/11 conspirators in Article III courts, which would provide them with the very rights that may make it possible for them to escape the justice which they so richly deserve. We believe that military commissions, which have a long and honorable history in this country dating back to the Revolutionary War, are the appropriate legal forum for the individuals who declared war on America. With utter disdain for all norms of decency and humanity, and in defiance of the laws of warfare accepted by all civilized nations, these individuals targeted tens of thousands of civilian non-combatants, brutally killing 3,000 men, women and children, injuring thousands more, and terrorizing millions.

We support Senate Amendment 2669 (pursuant to H.R. 2847, the Commerce, Justice, Science Appropriations Act of 2010), ''prohibiting the use of funds for the prosecution in Article III courts of the United States of individuals involved in the September 11, 2001 terrorist attacks.'' We urge its passage by all those members of the United States Senate who stood on the senate floor eight years ago and declared that the perpetrators of these attacks would answer to the American people. The American people will not understand why those same senators now vote to allow our cherished federal courts to be manipulated and used as a stage by the ''mastermind of 9/11'' and his co-conspirators to condemn this nation and rally their fellow terrorists the world over. As one New York City police detective, who lost 60 fellow officers on 9/11, told members of the Department of Justice's Detainee Policy Task Force at a meeting last June, ''You people are out of touch. You need to hear the locker room conversations of the people who patrol your streets and fight your wars.''

The President of the United States has stated that military commissions, promulgated by congressional legislation and recently reformed with even greater protections for defendants, are a legal and appropriate forum to try individuals captured pursuant the 2001 Authorization for the Use of Military Force Act, passed by Congress in response to the attack on America. Nevertheless, on May 21, 2009, President Obama announced a new policy that Al-Qaeda terrorists should be tried in Article III courts ''whenever feasible.''

We strongly object to the President creating a two-tier system of justice for terrorists in which those responsible for the death of thousands on 9/11 will be treated as common criminals and afforded the kind of platinum due process accorded American citizens, yet members of Al Qaeda who aspire to kill Americans but who do not yet have blood on their hands, will be treated as war criminals. The President offers no explanation or justification for this contradiction, even as he readily acknowledges that the 9/11 conspirators, now designated ''unprivileged enemy belligerents,'' are appropriately accused of war crimes. We believe that this two-tier system, in which war criminals receive more due process protections than would-be war criminals, will be mocked and rejected in the court of world opinion as an ill-conceived contrivance aimed, not at justice, but at the appearance moral authority.

The public has a right to know that prosecuting the 9/11 conspirators in federal courts will result in a plethora of legal and procedural problems that will severely limit or even jeopardize the successful prosecution of their cases. Ordinary criminal trials do not allow for the exigencies associated with combatants captured in war, in which evidence is not collected with CSI-type chain-of-custody standards. None of the 9/11 conspirators were given the Miranda warnings mandated in Article III courts. Prosecutors contend that the lengthy, self-incriminating tutorials Khalid Sheikh Mohammed and others gave to CIA interrogators about 9/11 and other terrorist operations—called ''pivotal for the war against Al-Qaeda'' in a recently released, declassified 2005 CIA report—may be excluded in federal trials. Further, unlike military commissions, all of the 9/11 cases will be vulnerable in federal court to defense motions that their prosecutions violate the Speedy Trial Act. Indeed, the judge presiding in the case of Ahmed Ghailani, accused of participating in the 1998 bombing of the American Embassy in Kenya, killing 212 people, has asked for that issue to be briefed by the defense. Ghailani was indicted in 1998, captured in Pakistan in 2004, and held at Guantanamo Bay until 2009.

Additionally, federal rules risk that classified evidence protected in military commissions would be exposed in criminal trials, revealing intelligence sources and methods and compromising foreign partners, who will be unwilling to join with the United States in future secret or covert operations if doing so will risk exposure in the dangerous and hostile communities where they operate. This poses a clear and present danger to the public. The safety and security of the American people is the President's and Congress's highest duty.

Former Attorney General Michael Mukasey recently wrote in the Wall Street Journal that ''the challenges of terrorism trials are overwhelming.'' Mr. Mukasey, formerly a federal judge in the Southern District of New York, presided over the multi-defendant terrorism prosecution of Sheikh Omar Abel Rahman, the cell that attacked the World Trade Center in 1993 and conspired to attack other New York landmarks. In addition to the evidentiary problems cited above, he expressed concern about courthouse and jail facility security, the need for anonymous jurors to be escorted under armed guard, the enormous costs associated with the use of U.S. marshals necessarily deployed from other jurisdictions, and the danger to the community which, he says, will become a target for homegrown terrorist sympathizers or embedded Al Qaeda cells.

Finally, there is the sickening prospect of men like Khalid Sheikh Mohammed being brought to the federal courthouse in Lower Manhattan, or the courthouse in Alexandria, Virginia, just a few blocks away from the scene of carnage eight years ago, being given a Constitutionally mandated platform upon which he can mock his victims, exult in the suffering of their families, condemn the judge and his own lawyers, and rally his followers to continue jihad against the men and women of the U.S. military, fighting and dying in the sands of Iraq and the mountains of Afghanistan on behalf of us all.

There is no guarantee that Mr. Mohammed and his co-conspirators will plead guilty, as in the case of Zacarias Moussaoui, whose prosecution nevertheless took four years, and who is currently attempting to recant that plea. Their attorneys will be given wide latitude to mount a defense that turns the trial into a shameful circus aimed at vilifying agents of the CIA for alleged acts of ''torture,'' casting the American government and our valiant military as a force of evil instead of a force for good in places of the Muslim world where Al Qaeda and the Taliban are waging a brutal war against them and the local populations. For the families of those who died on September 11, the most obscene aspect of giving Constitutional protections to those who planned the attacks with the intent of inflicting maximum terror on their victims in the last moments of their lives will be the opportunities this affords defense lawyers to cast their clients as victims.

Khalid Sheikh Mohammed and his co-conspirators are asking to plead guilty, now, before a duly-constituted military commission. We respectfully ask members of Congress, why don't we let them?

Respectfully submitted,
(Signed by 249 Family members).

IRAQ RECONSTRUCTION

Mr. LIEBERMAN. Madam President, I wish to commemorate the sixth anniversary of what is known today as the Office of the Special Inspector General for Iraq Reconstruction. Six years ago, on November 6, 2003, President Bush signed Public Law 108–106, the Emergency Supplemental Appropriations Act for Defense and for the Reconstruction of Iraq and Afghanistan. The reconstruction effort at the time was under the direction of the Coalition Provisional Authority, CPA, and Congress, appropriately, provided for an Inspector General of the Authority to oversee the CPA's expenditures.

As the administration moved toward ending the CPA and transferring sovereignty back to the Iraqi people through its interim government, it became clear that it was important to maintain oversight of the multiagency reconstruction effort underway in Iraq. In Public Law 108–375, the Ronald W. Reagan National Defense Authorization Act for fiscal year 2005, Congress decided to redesignate the CPA IG as the Special Inspector General for Iraq Reconstruction, or SIGIR, with responsibility for reviewing programs funded with amounts appropriated or otherwise made available for the Iraq Relief and Reconstruction Fund.

The law provided, uniquely at the time, that the SIGIR report directly to both the Secretary of Defense and the Secretary of State, and that its quarterly reports be sent directly to the Congress.

As the reconstruction effort for Iraq grew in complexity Congress asked SIGIR to review additional funding streams; it is now responsible for reviewing ''all funds appropriated or otherwise made available for the reconstruction of Iraq.''

Since SIGIR reviews reconstruction funds expended by all agencies, it can compare the effectiveness of different agencies' practices and approaches to related problems. In addition, the frequent reorganizations of the reconstruction effort and the widespread pattern of having some agencies carry out work on behalf of others has made cross-agency reviews critical to providing accountability for expenditures. SIGIR has been able to provide precisely that type of cross-agency scrutiny.

SIGIR's productivity is notable. It has submitted 23 quarterly reports to Congress and published 4 ''lessoned learned'' reports, including the comprehensive account entitled ''Hard Lessons: The Iraq Reconstruction Experience.'' It has issued 155 audit reports, 159 project assessments, inspections, and 96 limited onsite assessments.

SIGIR's staff in Baghdad and Arlington, VA, produces timely, useful reporting to program managers, senior Department leadership, and Congress. Its quarterly reports present a comprehensive, closely documented, snapshot of the reconstruction effort and conditions on the ground to provide context for understanding progress, or lack of progress, in Iraq's reconstruction. In recent quarters, reports have included province-by-province descriptions of the status of reconstruction and the pace of political change. The audit and inspections groups work in ''real time,'' so that managers can improve processes quickly, often before reports are formally published.

SIGIR's reviews have been extremely useful to both the administration and Congress in assessing the many challenges of the reconstruction. The performance by the SIGIR office has also been recognized by the Council of Inspectors General on Integrity and Efficiency, formerly the President's Council on Integrity and Efficiency, PCIE, for demonstrating integrity, determination and courage in providing independent oversight and unbiased review of U.S. reconstruction efforts in Iraq, and for exemplifying the highest ideals of government services as envisioned by the tenets of the Inspector General Act.

SIGIR's auditors and investigators carry out their work under dangerous and difficult circumstances. Its employees in Baghdad, in addition to being separated from their families and living under difficult conditions, are subject to considerable physical danger. Five have been wounded by indirect fire. Today I would especially like to pay tribute to SIGIR auditor Paul Converse, who died of wounds sustained in the Easter 2008 rocket attack on Baghdad's International Zone. Mr. Converse made the ultimate sacrifice in service to his country.

As my colleagues know, the reconstruction effort in Iraq suffered initially from uncoordinated and insufficient planning and has been characterized too often by poor contract oversight. The security situation in Iraq also increased the complexity of executing reconstruction projects. From its audits of specific projects such as the Basrah Children's Hospital and the Mosul Dam, to its broad reviews of thematic issues such as human capital management and contract administration, the SIGIR reports have provided a frank look at, and a better understanding of, the shortcomings, the successes, and the challenges of reconstruction.

So today I salute all the hard-working current and former staff of SIGIR, SIGIR's long-serving Deputy Inspector General, Ginger Cruz, and, of course, Stuart Bowen, who has ably served as the Special Inspector General for 6 years. Their work has been extremely influential on the evolution of reconstruction efforts in Iraq, and undoubtedly will help inform future U.S. relief and reconstruction efforts. Their efforts are greatly appreciated by this Senator.

LAND AND WATER CONSERVATION AUTHORIZATION AND FUNDING ACT

Mr. BAUCUS. Madam President, I rise today to speak about legislation that I introduced on Friday with Senator BINGAMAN—the Land and Water Conservation Authorization and Funding Act of 2009—which would establish permanent funding for the Land and Water Conservation Fund. This bill makes it certain that the funds available in the Land and Water Conservation Fund—LWCF—are not subject to the annual whims of Congress, but instead that these funds are available at a steady, reliable, certain level that will allow us to protect land and water well into our future.

For over 30 years, the LWCF has been used to purchase lands from willing sellers for the purposes of conservation. It is authorized at a spending level $900 million per year. However, Congress has rarely approved the full $900 million, and appropriations have varied widely. The result is a program that sometimes moves forward in fits and starts rather than with a consistent level of investment from year to year.

Even with this situation, the LWCF is an incredibly successful and important program for our land conservation needs. In Montana, the LWCF has funded the acquisition of key treasures such as the Sun Ranch in Madison County and the Iron Mask Ranch in Broadwater County. We have areas all over Montana in the pristine ecosystem of the Rocky Mountain Front that are standing in line, just waiting for LWCF funds to be available.

We cannot afford to wait any longer. We need to take steps today, this Congress, to fix this long-standing problem and establish permanent funding for the LWCF to protect Montana's resources well into the future.

WYOMING FARM BUREAU FEDERATION

Mr. BARRASSO. Madam President, I wish to recognize the Wyoming Farm Bureau Federation's 90 years of service. Since its first meeting, the Wyoming Farm Bureau Federation has advocated for Wyoming farm and ranch families in local, State and Federal policy. The organization has been a leader in advocating for low taxes, less government, multiple use, and most of all private property rights for generations. The Wyoming Farm Bureau Federation provides organization, resources, and service to our agriculture community.

Among the strengths of the Wyoming Farm Bureau Federation is the organization of the Farm Bureau Young Farmers & Ranchers Program. This program provides resources and leadership for men and women beginning their careers in agriculture. The program is laying the foundation for future leaders in Wyoming agriculture and our rural communities.

Wyoming Farm Bureau Federation serves as a reliable source of agriculture and business information in Wyoming. Many in Wyoming turn to Wyoming Farm Bureau Federation as the source for up-to-date agricultural news. The organization provides timely information and valuable insight into current issues facing Wyoming and America.

Wyoming Farm Bureau Federation members will celebrate 90 years of service at their annual meeting this week in Casper, WY. They will remember the pioneer spirit that brought together farmers and ranchers from Wyoming's counties 90 years ago. The foresight of those early members has allowed the Wyoming Farm Bureau Federation to be the leading agriculture organization that it is today.

Wyoming Farm Bureau Federation has led the way to preserve individual

freedoms and expand opportunities in agriculture for 90 years. I recognize this important milestone, and I wish the organization and all of its members future success.

ADDITIONAL STATEMENTS

TRIBUTE TO BRIGADIER GENERAL MARK C. ARNOLD

• Mr. VOINOVICH. Madam President, I wish to recognize the promotion of U.S. Army Reserve BG Mark C. Arnold.

On November 14, 2009, Mark Arnold will be promoted to brigadier general. He has more than 32 years of military service including time served in Afghanistan and Iraq. He was commissioned a distinguished military graduate and holds a bachelor of science degree from Ohio University, my alma mater, and he also holds a master of business administration degree from Cleveland State University.

Brigadier General Arnold began his military career as an infantryman and has completed the airborne course, jumpmaster course, pathfinder course, air assault course, ranger course, special forces qualification course, psychological operations course, civil affairs course, Combined Arms Services Staff School, Command and General Staff College, and the Army War College where he completed his master of strategic studies.

Brigadier General Arnold is presently assigned as the deputy commanding general of the U.S. Army Reserve 81st Regional Support Command at Fort Jackson, SC. He is also the president and chief executive officer of GSE, which is a $500 million multinational manufacturing firm. He has demonstrated that he is a ''Warrior-Citizen'' who is equally committed to the defense of our great Nation and the advancement of his community. I applaud his commitment to public service as well as his commitment to his community.

The State of Ohio and all Americans congratulate Brigadier General Arnold for his tireless dedicated duty to protect freedom, ensure liberty, and defend the principles of the United States. Leaders like Brigadier General Arnold will ensure the United States will continue to prosper as the world's greatest Nation.

I want to extend congratulations and my sincere regards and best wishes to Brigadier General Arnold and his family in honor of his promotion.•

REMEMBERING MAYOR GEORGE MURRAY SULLIVAN

• Mr. BEGICH. Madam President, I wish to commemorate the life of a very special resident of my home State of Alaska, former Anchorage Mayor George Murray Sullivan.

Mayor George Murray Sullivan passed away September 23, 2009, after an extended battle with lung cancer.

Mayor George Sullivan was the embodiment of a true Alaskan. He was born and raised in Valdez, honorably served in our Nation's Army, and assisted with the completion of the only road leading out of our State, the Alaska Highway. As a devoted public servant, Mr. SULLIVAN served in the Alaska Legislature and as mayor of Anchorage. Today, Alaskans are grateful to this remarkable man for his guidance and pioneering spirit.

On behalf of his family and his many friends I ask we honor George Sullivan's memory. I ask his obituary, published September 27, 2009, in the Anchorage Daily News, be printed into the RECORD.

The information follows:

[From the Anchorage Daily News, Sept. 27, 2009]

Anchorage Mayor George Murray Sullivan, 87, died Sept. 23, 2009, surrounded by his family after a long battle with lung cancer. A funeral Mass will be celebrated at 11 a.m. Saturday at Our Lady of Guadalupe Catholic Church. Burial will be at the Anchorage Memorial Cemetery. George was born March 31, 1922, to Harvey and Viola Sullivan in Portland, Ore.

He was raised in Valdez with sisters Lillian and Marion, and graduated salutatorian from Valdez High School in 1939. His father Harvey was the U.S. district marshal and mother Viola was the first woman mayor in Alaska. George had a wonderful life as a kid in Valdez, playing many sports, engaging in school activities and helping at the family store. In 1937, at the age of 15, George was hired at the Kennecott Mine, although the hiring age at the time was 16. He was strong and eager, so he was put to work on the tram. He navigated 750-pound ore buckets off the tram and into the grizzly crusher for 10 hours a day, seven days a week. He once estimated that he put in about 17 miles a day on the job. In 1938, George drove trucks for the Alaska Road Commission and hauled equipment and supplies to the workers active in the Richardson Highway construction project.

He worked with the military troops to get the Alaska Highway completed and transported military equipment to the Tanacross airport for Bob Reeve to fly to the outlying bases. In July 1944, George was drafted into the U.S. Army for two years and was stationed at Adak in the Aleutian Islands. He married the love of his life, Margaret Eagan Sullivan, on Dec. 30, 1947, and moved to Nenana. George was the U.S. deputy marshal and Margaret was the U.S. commissioner. Aptly, George would catch the criminals and Margaret would try them. In 1952, George worked for Al Ghezzi's Alaska Freight Lines, trucking supplies to the DEW Line on the first ice road to the North Slope. He worked for Garrison Fast Freight.

In 1955, he was elected to the Fairbanks City Council. George took a job in management with Consolidated Freightways and in 1959 moved the family to Anchorage, where he lived for the next 50 years. In 1964, he was appointed by Gov. Bill Egan to fill a vacant seat in the Alaska State Legislature. He was in Juneau when the 1964 earthquake occurred; Margaret was at home in Anchorage with seven children. George spent many agonizing hours trying to get on a plane home to his family. George finished his term in the Legislature and, in 1965, was elected to the Anchorage City Council. In 1967, he ran a successful race to become Anchorage mayor, a position he would hold for 15 years. Anchorage grew fast during those years, spurred in large part by the oil boom. In 1975, voters approved the unification of Anchorage's city and borough governments and elected George its mayor. The creation of the Municipality of Anchorage was an incredible undertaking. As mayor, George successfully merged the duplicative departments, boards, utilities. etc., into one government. After unification, the state was awash with money from the oil pipeline revenues. George and his administration had a vision of what Anchorage could become and what was needed to enhance the city's quality of life for its residents. He worked hard to develop what was known as Project '80s.

George lobbied successfully in Juneau and received hundreds of millions of dollars for construction of the Egan Civic and Convention Center, Loussac Library, the Alaska Center for the Performing Arts and the Sullivan Sports Arena. This moved Anchorage into being a modern and vibrant community, which enhanced economic and community growth in the Southcentral area. George finished as mayor of Anchorage in 1982. He then worked for Western Airlines as senior vice president. In 1986, he was a founding member of the Sullivan Group, a consulting firm. He also worked as the legislative director for Gov. Steve Cowper. He received an honorary doctorate from the University of Alaska in public administration. George was never one to stay still for too long and remained active in community and state boards up until his illness in 2008.

Over the years he was active on the Enstar board, AWWU, state PERS board, Anchorage Senior Center Endowment, TOTE Advisory Board, Military Advisory Board, Anchorage Wellness Court Alumni Group, Alaska Heart Association, Boys and Girls Clubs and many more. He was always willing to lend a helping hand to make Anchorage a little better for those less fortunate or in need. He had a strong faith in the Roman Catholic Church and often assisted at Mass and in the church's organizations, the Knights of Columbus and Knights and Ladies of the Holy Sepulcher. He was a member of the Elks Club, the Veterans of Foreign Wars and the Pioneers of Alaska. George had an incredible love for the community and worked on many projects to enhance the quality of life for all who called Anchorage home.

He was a true public servant and visionary who strived to make Anchorage a better community for future generations while he was mayor and during his retirement. George's family said: ''Dad was blessed with a kind and generous heart. He and Mom gave so much to their family and community. Dad had a wonderful way with people. He was a great Alaskan with an Irish charm and humor that would put people at ease when they met him. He and Mom traveled extensively and held lifelong friendships that spanned the globe. He loved people and never forgot a name or face.''

George is survived by his sons, Timothy, Daniel (Lynnette), Kevin, George Jr., Michael and Casey (Paige); and daughters, Colleen (Ted Leonard) and Shannon (Christopher Adams). He is also survived by grandchildren, Tim (Terrill), Conor (Carey), Catherine and Moira Sullivan and their mother, Susan; grandchildren, Kelly, Patrick (Julie) and Erin Sullivan and their mother, Jean; grandchildren, Jennifer Sullivan; Matthew, Adam, Molly and Bridget Glenn; Jared Leonard; Declan and Shane Adams, and Tierney and Parker Sullivan; and six great-grandchildren with one on the way. His is also survived by sisters-in-law, Pat Franklin and Marge Eagan of Fairbanks; and many nieces and nephews. George was preceded in death by his parents, Harvey and Viola Sullivan; sisters, Marion and Lillian; son, Harvey; and Margaret, his wife of 59 years.•

REMEMBERING MYRON GORDON

● Mr. FEINGOLD. Madam President, it is with great sadness that I mark the passing of an important judicial figure in Wisconsin and a dear family friend, Myron Gordon.

Myron was a good friend of my father, Leon Feingold, for many years, and I was privileged to know him well myself. He was a man of so much integrity, and I admired him tremendously, as my father did. In his obituary in the Milwaukee Journal Sentinel, people describe him as a ''giant'' of the legal profession and the ''king of judges,'' and he truly was.

His outstanding character served him well in his many years on the bench, on Milwaukee County Civil Court, the Milwaukee County Circuit Court, the Wisconsin Supreme Court, and, finally, the Eastern District of Wisconsin, where he served as a Federal judge until his retirement in 2001.

Myron had so many wonderful qualities that came through in his work. He was very wise, and he was absolutely fairminded, refusing to play favorites in the courtroom or be swayed by outside opinion. He was an example for us all, and I am so glad that he was able to serve the State he loved so well for so many years. I was fortunate to know him, and Wisconsin is fortunate to have benefited from his lifetime of service and his commitment to the public good. He will be greatly missed.●

TRIBUTE TO LORRAINE ANDERSON

● Mr. UDALL of Colorado. Madam President, I wish to pay tribute to a dedicated public servant, Ms. Lorraine Anderson, who on November 9, 2009, is stepping down after 24 years on the Arvada City Council.

Lorraine has been a dedicated public servant who has served her community of Arvada, CO, in innumerable ways and has developed a reputation across the Denver metropolitan area as a leader in the best tradition of bipartisanship and local government service. Her experience and influence have also been recognized at the national level.

I got to know Lorraine while working on issues related to the cleanup and closure of the Rocky Flats nuclear weapons facility near Arvada when I was a Congressman representing this area of Colorado. While she was a strong advocate for a thorough cleanup of this site and a defender of the interests of Arvada, she also worked in a collaborative spirit that was informed by heavy doses of practical common sense. As many of my colleagues will recognize, these cleanups can be complex and the process full of acronyms and scientific jargon. Lorraine would make sure that regulators and State and Federal officials spoke to the public in plain English. She prized understanding and workable solutions in the very complicated process of securing local agreement on the cleanup process.

She was a valuable contributor to this process and helped make it a success. It is the same approach that she brought to all of her public service work.

Let me take a moment to highlight that work and her distinguished and impressive record. She served six terms on the Arvada City Council between 1985 and 2009 and served as mayor pro tem many times over the span of her time with the city. During this time, she also served on the Arvada Planning Commission, was a founding member of both the Arvada Clean Air Advisory Committee and the Arvada Economic Development Association, and served as a board member of the Forward Arvada Building Corporation.

On issues affecting the Denver metropolitan area, she served on the board of the Colorado Municipal League from 1991 through 2005 and was the president of that board in 2000. She also served on the board of directors of the Denver Regional Council of Governments from 1991 through 2007 and was chair of that organization in 2004. She served on the Regional Air Quality Council from 1993 to 1997 and was president of Colorado Women in Municipal Government from 1991 to 1993. And she served on the Rocky Flats Coalition of Local Governments and the Rocky Flats Stewardship Task Force Steering Committee.

On the national level, Lorraine served on the National League of Cities board of directors from 2003 to 2005 and was a member of many of the league's committees, including Energy, Environment, and Natural Resources and the Clean Air Task Force, and was a board member of the Energy Communities Alliance.

Lorraine is well-known throughout the Denver metropolitan region and is a tireless advocate for local governments in the metro area on growth policies, transportation, both highway and transit, public health, and environmental issues. She has not only worked actively and effectively with her local and State elected colleagues in the region, but she has also advocated and educated her constituents on the importance of their involvement in regional issues. She has been one of only a handful of women who have served on the Arvada City Council, and she is a role model for the community in this regard.

In addition to her public service, Lorraine is the retired co-owner of Anderson Tire Service, Inc., and served as president of the Mountain States Tire Dealers Association in 1988, one of two women first elected to the board of directors and the first woman to serve as president of that organization.

I know that the city of Arvada is sorry to see her step down. But I also know that she will likely stay involved in the important issues affecting her city, region, State and Nation. I wish her all the best in her future endeavors and thank her for her proud service to her community and Nation.●

MESSAGES FROM THE PRESIDENT

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

EXECUTIVE MESSAGES REFERRED

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

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

REPORT ON THE CONTINUATION OF THE NATIONAL EMERGENCY WITH RESPECT TO THE PROLIFERATION OF WEAPONS OF MASS DESTRUCTION THAT WAS DECLARED IN EXECUTIVE ORDER 12938 ON NOVEMBER 14, 1994, AS RECEIVED DURING THE ADJOURNMENT OF THE SENATE ON NOVEMBER 6, 2009—PM 38

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Banking, Housing, and Urban Affairs:

To the Congress of the United States:

Section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)) provides for the automatic termination of a national emergency unless, prior to the anniversary date of its declaration, the President publishes in the *Federal Register* and transmits to the Congress a notice stating that the emergency is to continue in effect beyond the anniversary date. In accordance with this provision, I have sent to the *Federal Register* for publication the enclosed notice, stating that the national emergency with respect to the proliferation of weapons of mass destruction that was declared in Executive Order 12938, as amended, is to continue in effect for 1 year beyond November 14, 2009.

BARACK OBAMA.

THE WHITE HOUSE, *November 6, 2009*.

MESSAGE FROM THE HOUSE

At 2:03 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has passed the following bill, without amendment:

S. 1211. An act to designate the facility of the United States Postal Service located at 60 School Street, Orchard Park, New York, as the ''Jack F. Kemp Post Office Building''.

The message also announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 1838. An act to amend the Small Business Act to modify certain provisions relating to women's business centers, and for other purposes.

H.R. 1845. An act to amend the Small Business Act to modernize Small Business Development Centers, and for other purposes.

H.R. 2868. An act to amend the Homeland Security Act of 2002 to enhance security and protect against acts of terrorism against chemical facilities, to amend the Safe Drinking Water Act to enhance the security of public water systems, and to amend the Federal Water Pollution Control Act to enhance the security of wastewater treatment works, and for other purposes.

H.R. 3737. An act to amend the Small Business Act to modernize the Microloan Program, and for other purposes.

H.R. 3743. An act to amend the Small Business Act to improve the disaster relief programs of the Small Business Administration, and for other purposes.

H.R. 3788. An act to designate the facility of the United States Postal Service located at 3900 Darrow Road in Stow, Ohio, as the ''Corporal Joseph A. Tomci Post Office Building''.

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

H. Con. Res. 209. A concurrent resolution recognizing the 30th anniversary of the Iranian hostage crisis, during which 52 United States citizens were held hostage for 444 days from November 4, 1979, to January 20, 1981, and for other purposes.

H. Con. Res. 210. A concurrent resolution providing for a conditional adjournment of the House of Representatives and a conditional recess or adjournment of the Senate.

The message also announced that the House agrees to the amendment of the Senate to the bill (H.R. 1299) to make technical corrections to the laws affecting certain administrative authorities of the United States Capital Police, and for other purposes, with an amendment.

MEASURES REFERRED

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

H.R. 1838. An act to amend the Small Business Act to modify certain provisions relating to women's business centers, and for other purposes; to the Committee on Small Business and Entrepreneurship.

H.R. 1845. An act to amend the Small Business Act to modernize Small Business Development Centers, and for other purposes; to the Committee on Small Business and Entrepreneurship.

H.R. 2868. To amend the Homeland Security Act of 2002 to enhance security and protect against acts of terrorism against chemical facilities, to amend the Safe Drinking Water Act to enhance the security of public water systems, and to amend the Federal Water Pollution Control Act to enhance the security of wastewater treatment works, and for other purposes; to the Committee on Homeland Security and Governmental Affairs.

H.R. 3737. An act to amend the Small Business Act to improve the Microloan Program, and for other purposes; to the Committee on Small Business and Entrepreneurship.

H.R. 3743. An act to amend the Small Business Act to improve the disaster relief programs of the Small Business Administration, and for other purposes; to the Committee on Small Business and Entrepreneurship.

H.R. 3788. An act to designate the facility of the United States Postal Service located at 3900 Darrow Road in Stow, Ohio, as the ''Corporal Joseph A. Tomci Post Office Building''; to the Committee on Homeland Security and Governmental Affairs.

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

H. Con. Res. 209. Concurrent resolution recognizing the 30th anniversary of the Iranian hostage crisis, during which 52 United States citizens were held hostage for 444 days from November 4, 1979, to January 20, 1981, and for other purposes; to the Committee on Foreign Relations.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. CORNYN (for himself and Mrs. HUTCHISON):

S. 2751. A bill to designate the Department of Veterans Affairs medical center in Big Spring, Texas, as the George H. O'Brien, Jr., Department of Veterans Medical Center; to the Committee on Veterans' Affairs.

By Mr. VITTER (for himself, Mrs. HUTCHISON, Mr. CORNYN, Mr. NELSON of Florida, Mr. LEMIEUX, and Ms. LANDRIEU):

S. 2752. A bill to ensure the sale and consumption of raw oysters and to direct the Food and Drug Administration to conduct an education campaign regarding the risks associated with consuming raw oysters, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mrs. HAGAN:

S. 2753. A bill to suspend temporarily the suspension of duty on RSD 1235; to the Committee on Finance.

By Mrs. GILLIBRAND:

S. 2754. A bill to amend the Internal Revenue Code of 1986 to encourage teachers to pursue teaching science, technology, engineering, and math subjects to elementary and secondary schools; to the Committee on Finance.

By Mr. MENENDEZ (for himself, Ms. STABENOW, Mr. BENNET, and Mrs. GILLIBRAND):

S. 2755. A bill to amend the Internal Revenue Code of 1986 to provide an investment credit for equipment used to fabricate solar energy property, and for other purposes; to the Committee on Finance.

By Mr. WARNER:

S. 2756. A bill to establish the Financial Services Systemic Risk Oversight Council, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. MENENDEZ (for himself, Mr. DURBIN, Mr. FEINGOLD, Mrs. GILLIBRAND, Mr. INOUYE, and Ms. LANDRIEU):

S. 2757. A bill to authorize the adjustment of status for immediate family members of persons who served honorably in the Armed Forces of the United States during the Afghanistan and Iraq conflicts and for other purposes; to the Committee on the Judiciary.

By Ms. STABENOW (for herself, Mrs. GILLIBRAND, Mr. MERKLEY, Mr. SANDERS, Mrs. BOXER, Mr. BINGAMAN, and Mr. LEAHY):

S. 2758. A bill to amend the Agricultural Research, Extension, and Education Reform Act of 1998 to establish a national food safety training, education, extension, outreach, and technical assistance program for agricultural producers, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

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

By Mrs. BOXER (for herself, Ms. COLLINS, Mrs. GILLIBRAND, Ms. STABENOW, Mrs. SHAHEEN, Mrs. LINCOLN, Mrs. HUTCHISON, Ms. LANDRIEU, Mrs. FEINSTEIN, Ms. SNOWE, Ms. MIKULSKI, and Mrs. MCCASKILL):

S. Res. 345. A resolution deploring the rape and assault of women in Guinea and the killing of political protesters; to the Committee on Foreign Relations.

By Ms. SNOWE (for herself, Mr. KERRY, Mr. KIRK, Mr. REED, Mr. WHITEHOUSE, and Ms. CANTWELL):

S. Res. 346. A resolution expressing the sense of the Senate that, at the 21st Regular Meeting of the International Commission on the Conservation of Atlantic Tunas, the United States should seek to ensure management of the eastern Atlantic and Mediterranean bluefin tuna fishery adheres to the scientific advice provided by the Standing Committee on Research and Statistics and has a high probability of achieving the established rebuilding target, pursue strengthened protections for spawning bluefin populations in the Mediterranean Sea to facilitate the recovery of the Atlantic bluefin tuna, pursue imposition of more stringent measures to ensure compliance by all Members with the International Commission for the Conservation of Atlantic Tunas' conservation and management recommendations for Atlantic bluefin tuna and other species, and ensure that United States' quotas of tuna and swordfish are not reallocated to other nations, and for other purposes; considered and agreed to.

By Mr. SCHUMER (for himself and Mrs. GILLIBRAND):

S. Res. 347. A resolution congratulating the New York Yankees on winning the 2009 World Series; to the Committee on Commerce, Science, and Transportation.

By Mr. CASEY (for himself, Mr. WHITEHOUSE, Mr. SCHUMER, Mr. SPECTER, Mr. CARDIN, Mr. UDALL of Colorado, Mr. LAUTENBERG, Mr. BAYH, and Mr. BEGICH):

S. Res. 348. A resolution supporting the goals and ideals of Pancreatic Cancer Awareness Month; to the Committee on Health, Education, Labor, and Pensions.

ADDITIONAL COSPONSORS

S. 182

At the request of Mr. DODD, the name of the Senator from Alaska (Mr. BEGICH) was added as a cosponsor of S. 182, a bill to amend the Fair Labor Standards Act of 1938 to provide more effective remedies to victims of discrimination in the payment of wages on the basis of sex, and for other purposes.

S. 461

At the request of Mrs. LINCOLN, the name of the Senator from Virginia (Mr. WEBB) was added as a cosponsor of S. 461, a bill to amend the Internal Revenue Code of 1986 to extend and modify the railroad track maintenance credit.

S. 492

At the request of Mr. JOHNSON, the name of the Senator from North Dakota (Mr. CONRAD) was added as a cosponsor of S. 492, a bill to amend the

Social Security Act and the Internal Revenue Code of 1986 to exempt certain employment as a member of a local governing board, commission, or committee from social security tax coverage.

S. 510

At the request of Mr. DURBIN, the name of the Senator from Utah (Mr. HATCH) was added as a cosponsor of S. 510, a bill to amend the Federal Food, Drug, and Cosmetic Act with respect to the safety of the food supply.

S. 611

At the request of Mr. LAUTENBERG, the name of the Senator from Connecticut (Mr. DODD) was added as a cosponsor of S. 611, a bill to provide for the reduction of adolescent pregnancy, HIV rates, and other sexually transmitted diseases, and for other purposes.

S. 619

At the request of Ms. SNOWE, the name of the Senator from Maine (Ms. COLLINS) was added as a cosponsor of S. 619, a bill to amend the Federal Food, Drug, and Cosmetic Act to preserve the effectiveness of medically important antibiotics used in the treatment of human and animal diseases.

S. 825

At the request of Mrs. LINCOLN, the name of the Senator from Michigan (Mr. LEVIN) was added as a cosponsor of S. 825, a bill to amend the Internal Revenue Code of 1986 to restore, increase, and make permanent the exclusion from gross income for amounts received under qualified group legal services plans.

S. 870

At the request of Mrs. LINCOLN, the name of the Senator from Idaho (Mr. CRAPO) was added as a cosponsor of S. 870, a bill to amend the Internal Revenue Code of 1986 to expand the credit for renewable electricity production to include electricity produced from biomass for on-site use and to modify the credit period for certain facilities producing electricity from open-loop biomass.

S. 1067

At the request of Mr. FEINGOLD, the name of the Senator from New Jersey (Mr. MENENDEZ) was added as a cosponsor of S. 1067, a bill to support stabilization and lasting peace in northern Uganda and areas affected by the Lord's Resistance Army through development of a regional strategy to support multilateral efforts to successfully protect civilians and eliminate the threat posed by the Lord's Resistance Army and to authorize funds for humanitarian relief and reconstruction, reconciliation, and transitional justice, and for other purposes.

S. 1147

At the request of Mr. KOHL, the name of the Senator from Virginia (Mr. WEBB) was added as a cosponsor of S. 1147, a bill to prevent tobacco smuggling, to ensure the collection of all tobacco taxes, and for other purposes.

S. 1160

At the request of Mr. SCHUMER, the name of the Senator from New Mexico (Mr. BINGAMAN) was added as a cosponsor of S. 1160, a bill to provide housing assistance for very low-income veterans.

S. 1234

At the request of Mr. LIEBERMAN, the name of the Senator from Mississippi (Mr. WICKER) was added as a cosponsor of S. 1234, a bill to modify the prohibition on recognition by United States courts of certain rights relating to certain marks, trade names, or commercial names.

S. 1237

At the request of Mrs. MURRAY, the name of the Senator from Montana (Mr. BAUCUS) was added as a cosponsor of S. 1237, a bill to amend title 38, United States Code, to expand the grant program for homeless veterans with special needs to include male homeless veterans with minor dependents and to establish a grant program for reintegration of homeless women veterans and homeless veterans with children, and for other purposes.

S. 1311

At the request of Mr. WICKER, the name of the Senator from Louisiana (Mr. VITTER) was added as a cosponsor of S. 1311, a bill to amend the Federal Water Pollution Control Act to expand and strengthen cooperative efforts to monitor, restore, and protect the resource productivity, water quality, and marine ecosystems of the Gulf of Mexico.

S. 1382

At the request of Mr. DODD, the names of the Senator from Colorado (Mr. BENNET) and the Senator from Massachusetts (Mr. KIRK) were added as cosponsors of S. 1382, a bill to improve and expand the Peace Corps for the 21st century, and for other purposes.

S. 1518

At the request of Mr. BURR, the name of the Senator from West Virginia (Mr. BYRD) was added as a cosponsor of S. 1518, a bill to amend title 38, United States Code, to furnish hospital care, medical services, and nursing home care to veterans who were stationed at Camp Lejeune, North Carolina, while the water was contaminated at Camp Lejeune.

S. 1520

At the request of Mr. JOHNSON, the name of the Senator from New Mexico (Mr. UDALL) was added as a cosponsor of S. 1520, a bill to grant a Federal charter to the National American Indian Veterans, Incorporated.

S. 1553

At the request of Mr. GRASSLEY, the name of the Senator from Arkansas (Mrs. LINCOLN) was added as a cosponsor of S. 1553, a bill to require the Secretary of the Treasury to mint coins in commemoration of the National Future Farmers of America Organization and the 85th anniversary of the founding of the National Future Farmers of America Organization.

S. 1583

At the request of Mr. ROCKEFELLER, the name of the Senator from Massachusetts (Mr. KIRK) was added as a cosponsor of S. 1583, a bill to amend the Internal Revenue Code of 1986 to extend the new markets tax credit through 2014, and for other purposes.

S. 1584

At the request of Mr. MERKLEY, the name of the Senator from Delaware (Mr. KAUFMAN) was added as a cosponsor of S. 1584, a bill to prohibit employment discrimination on the basis of sexual orientation or gender identity.

S. 1598

At the request of Mr. SCHUMER, the name of the Senator from Ohio (Mr. BROWN) was added as a cosponsor of S. 1598, a bill to amend the National Child Protection Act of 1993 to establish a permanent background check system.

S. 1606

At the request of Mr. WHITEHOUSE, the name of the Senator from Ohio (Mr. BROWN) was added as a cosponsor of S. 1606, a bill to require foreign manufacturers of products imported into the United States to establish registered agents in the United States who are authorized to accept service of process against such manufacturers, and for other purposes.

S. 1628

At the request of Mr. UDALL of Colorado, the name of the Senator from Massachusetts (Mr. KIRK) was added as a cosponsor of S. 1628, a bill to amend title VII of the Public Health Service Act to increase the number of physicians who practice in underserved rural communities.

S. 1646

At the request of Mr. REED, the name of the Senator from Massachusetts (Mr. KIRK) was added as a cosponsor of S. 1646, a bill to keep Americans working by strengthening and expanding short-time compensation programs that provide employers with an alternative to layoffs.

S. 1660

At the request of Ms. KLOBUCHAR, the name of the Senator from Tennessee (Mr. ALEXANDER) 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. 1668

At the request of Mr. BENNET, the name of the Senator from Minnesota (Ms. KLOBUCHAR) was added as a cosponsor of S. 1668, a bill to amend title 38, United States Code, to provide for the inclusion of certain active duty service in the reserve components as qualifying service for purposes of Post-9/11 Educational Assistance Program, and for other purposes.

S. 1730

At the request of Mr. FRANKEN, the names of the Senator from Michigan (Ms. STABENOW) and the Senator from Vermont (Mr. LEAHY) were added as cosponsors of S. 1730, a bill to provide for minimum loss ratios for health insurance coverage.

S. 1739

At the request of Mr. DODD, the name of the Senator from New York (Mrs. GILLIBRAND) was added as a cosponsor of S. 1739, a bill to promote freedom of the press around the world.

S. 1834

At the request of Mr. AKAKA, the name of the Senator from Missouri (Mrs. MCCASKILL) was added as a cosponsor of S. 1834, a bill to amend the Animal Welfare Act to ensure that all dogs and cats used by research facilities are obtained legally.

S. 1927

At the request of Mr. REID, his name was added as a cosponsor of S. 1927, a bill to establish a moratorium on credit card interest rate increases, and for other purposes.

At the request of Mr. DODD, the name of the Senator from Massachusetts (Mr. KIRK) was added as a cosponsor of S. 1927, supra.

S. 1939

At the request of Mrs. GILLIBRAND, the names of the Senator from South Dakota (Mr. JOHNSON) and the Senator from West Virginia (Mr. BYRD) were added as cosponsors of S. 1939, a bill to amend title 38, United States Code, to clarify presumptions relating to the exposure of certain veterans who served in the vicinity of the Republic of Vietnam, and for other purposes.

S. 2097

At the request of Mr. THUNE, the name of the Senator from North Carolina (Mr. BURR) was added as a cosponsor of S. 2097, a bill to authorize the rededication of the District of Columbia War Memorial as a National and District of Columbia World War I Memorial to honor the sacrifices made by American veterans of World War I.

S. 2128

At the request of Mr. LEMIEUX, the names of the Senator from Tennessee (Mr. CORKER) and the Senator from Oklahoma (Mr. COBURN) were added as cosponsors of S. 2128, a bill to provide for the establishment of the Office of Deputy Secretary for Health Care Fraud Prevention.

S. RES. 210

At the request of Mrs. LINCOLN, the name of the Senator from North Dakota (Mr. DORGAN) was added as a cosponsor of S. Res. 210, a resolution designating the week beginning on November 9, 2009, as National School Psychology Week.

S. RES. 278

At the request of Mrs. GILLIBRAND, the name of the Senator from Connecticut (Mr. DODD) was added as a cosponsor of S. Res. 278, a resolution honoring the Hudson River School painters for their contributions to the United States Senate.

S. RES. 340

At the request of Mr. CRAPO, the names of the Senator from Idaho (Mr. RISCH) and the Senator from Indiana (Mr. LUGAR) were added as cosponsors of S. Res. 340, a resolution expressing support for designation of a National Veterans History Project Week to encourage public participation in a nationwide project that collects and preserves the stories of the men and women who served our Nation in times of war and conflict.

At the request of Mr. ROCKEFELLER, his name was added as a cosponsor of S. Res. 340, supra.

AMENDMENT NO. 2733

At the request of Mr. JOHNSON, the names of the Senator from West Virginia (Mr. BYRD) and the Senator from California (Mrs. FEINSTEIN) were added as cosponsors of amendment No. 2733 proposed to H.R. 3082, a bill making appropriations for military construction, the Department of Veterans Affairs, and related agencies for the fiscal year ending September 30, 2010, and for other purposes.

AMENDMENT NO. 2737

At the request of Mr. UDALL of New Mexico, the name of the Senator from West Virginia (Mr. BYRD) was added as a cosponsor of amendment No. 2737 proposed to H.R. 3082, a bill making appropriations for military construction, the Department of Veterans Affairs, and related agencies for the fiscal year ending September 30, 2010, and for other purposes.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 345—DEPLORING THE RAPE AND ASSAULT OF WOMEN IN GUINEA AND THE KILLING OF POLITICAL PROTESTERS

Mrs. BOXER (for herself, Ms. COLLINS, Mrs. GILLIBRAND, Ms. STABENOW, Mrs. SHAHEEN, Mrs. LINCOLN, Mrs. HUTCHISON, Ms. LANDRIEU, Mrs. FEINSTEIN, Ms. SNOWE, Ms. MIKULSKI, and Mrs. MCCASKILL) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 345

Whereas, on December 23, 2008, a group of military officers calling itself the National Council for Democracy and Development (referred to in this preamble as the ''CNDD'') seized power in a coup in Guinea, installed as interim President Captain Moussa Dadis Camara, and promised to hold elections;

Whereas, on September 28, 2009, tens of thousands of unarmed opposition protesters met in and around an outdoor stadium to protest statements made by Captain Camara that he may run for president, after he said that he would not;

Whereas government security forces killed at least 157 demonstrators, after opening fire on the crowd, and brutalized and raped dozens of women openly in public;

Whereas, according to Human Rights Watch, these killings and assaults were part of a ''premeditated massacre'' in which the ''level, frequency, and brutality of sexual violence that took place at and after the protests strongly suggests that it was part of a systematic attempt to terrorize and humiliate the opposition, not just random acts by rogue soldiers'';

Whereas, according to the humanitarian organization CARE, ''What happened in Guinea is an outrage—and a stark reminder of a larger epidemic of violence against women and girls around the world.'';

Whereas members of the United Nations Security Council condemned ''the violence that caused reportedly more than 150 deaths and hundreds of wounded and other blatant violations of human rights including rapes in public streets in broad day light, and violence that led to the arrest of opposition party leaders'';

Whereas the United Nations High Commissioner for Human Rights characterized the events as a ''blood bath'' and stated that they ''must not become part of the fabric of impunity that has enveloped Guinea for decades'';

Whereas Amnesty International reports that violence against women knows few bounds, and that ''in armed conflicts, countless women and girls are raped and sexually abused by security forces and opposition groups as an act of war, and often face additional violence in refugee camps. Government sponsored violence also exists in peacetime, with women assaulted while in police custody, in prison, and at the hands of any number of state actors.'' and that ''violence against women is a violation of human rights that cannot be justified by any political, religious, or cultural claim''; and

Whereas, on October 16, 2009, United Nations Secretary-General Ban Ki-moon announced the creation of an international commission of inquiry to investigate the events: Now, therefore, be it

Resolved, That the Senate—

(1) deplores the rape and assault of women and the killing of political protestors in Guinea, and calls for an immediate cessation of violence, including gender-based violence and targeted killings by security forces;

(2) strongly supports efforts by the United Nations Security Council's commission of inquiry into the violence, and calls for Captain Moussa Dadis Camara and the National Council for Democracy and Development to abide by their pledge to cooperate with the commission;

(3) urges the identification and prosecution, by the appropriate authorities, of those responsible for orchestrating or carrying out the violence in Guinea;

(4) urges President Barack Obama, in coordination with leaders from the European Union and the African Union, to seriously consider punitive measures that could be taken against senior officials in Guinea found to be complicit in the violence, in particular the atrocities perpetrated against women and other gross human rights violations; and

(5) encourages President Obama to remain actively engaged in the political situation in Guinea, to continue to convey that the blatant abuse of women will not be tolerated, and to continue supporting the efforts of the appointed facilitator, President Blaise Compaore of Burkina Faso, to pave a way forward to credible elections.

SENATE RESOLUTION 346—EXPRESSING THE SENSE OF THE SENATE THAT, AT THE 21ST REGULAR MEETING OF THE INTERNATIONAL COMMISSION ON THE CONSERVATION OF ATLANTIC TUNAS, THE UNITED STATES SHOULD SEEK TO ENSURE MANAGEMENT OF THE EASTERN ATLANTIC AND MEDITERRANEAN BLUEFIN TUNA FISHERY ADHERES TO THE SCIENTIFIC ADVICE PROVIDED BY THE STANDING COMMITTEE ON RESEARCH AND STATISTICS AND HAS A HIGH PROBABILITY OF ACHIEVING THE ESTABLISHED REBUILDING TARGET, PURSUE STRENGTHENED PROTECTIONS FOR SPAWNING BLUEFIN POPULATIONS IN THE MEDITERRANEAN SEA TO FACILITATE THE RECOVERY OF THE ATLANTIC BLUEFIN TUNA, PURSUE IMPOSITION OF MORE STRINGENT MEASURES TO ENSURE COMPLIANCE BY ALL MEMBERS WITH THE INTERNATIONAL COMMISSION FOR THE CONSERVATION OF ATLANTIC TUNAS' CONSERVATION AND MANAGEMENT RECOMMENDATIONS FOR ATLANTIC BLUEFIN TUNA AND OTHER SPECIES, AND ENSURE THAT UNITED STATES' QUOTAS OF TUNA AND SWORDFISH ARE NOT REALLOCATED TO OTHER NATIONS, AND FOR OTHER PURPOSES

Ms. SNOWE (for herself, Mr. KERRY, Mr. KIRK, Mr. REED, Mr. WHITEHOUSE, and Ms. CANTWELL) submitted the following resolution; which was considered and agreed to:

S. RES. 346

Whereas Atlantic bluefin tuna and Atlantic swordfish are valuable historical commercial and recreational fisheries of the United States and many other countries;

Whereas the International Convention for the Conservation of Atlantic Tunas entered into force on March 21, 1969;

Whereas the Convention established the International Commission for the Conservation of Atlantic Tunas to coordinate international research and develop, implement, and enforce compliance of the conservation and management recommendations on the Atlantic bluefin tuna, Atlantic swordfish and other Atlantic highly migratory species in the Atlantic Ocean and the adjacent seas, including the Mediterranean Sea;

Whereas the United States has established for its fisheries a strict regime of conservation, management and compliance for Atlantic highly migratory species and protected living marine resources caught incidentally to such fisheries that is unmatched by other fishing nations;

Whereas the reallocation of United States quotas of Atlantic bluefin tuna and Atlantic swordfish to other nations will cause severe economic impacts, including a loss of United States jobs, and undermine the conservation of populations of protected living marine resources such as Atlantic billfish species, endangered sea turtles, sea birds and marine mammals caught incidentally in the fisheries of other nations;

Whereas in 1974, the Commission adopted its first conservation and management recommendation to ensure the sustainability of Atlantic bluefin tuna throughout the Atlantic Ocean and Mediterranean Sea, while allowing for the maximum sustainable catch for food and other purposes;

Whereas in 1981, for management purposes, the Commission adopted a working hypothesis of 2 Atlantic bluefin stocks, with 1 occurring west of 45 degrees west longitude (hereinafter referred to as the ''western Atlantic stock'') and the other occurring east of 45 degrees west longitude (hereinafter referred to as the ''eastern Atlantic and Mediterranean stock'');

Whereas, despite scientific advice intended to prevent overfishing, rebuild and maintain bluefin tuna populations at levels that will permit the maximum sustainable yield, and ensure the future sustainability of the stocks, the total allowable catch quotas have consistently been set at levels significantly higher than the recommended levels for the eastern Atlantic and Mediterranean stock;

Whereas despite the establishment by the Commission of minimum sizes for Atlantic bluefin tuna with which the United States has fully complied, the Standing Committee on Research and Statistics has repeatedly expressed grave concerns that the flagrant lack of compliance with such size limits by Members fishing in the eastern Atlantic and Mediterranean is seriously undermining the effectiveness of the Commission's bluefin tuna recovery plans;

Whereas despite the ongoing establishment by the Commission of fishing quotas for the eastern Atlantic and Mediterranean bluefin tuna fishery that surpass scientific recommendations, compliance with such quotas by parties to the Convention that harvest that stock has been extremely poor, with harvests exceeding the scientific advice by more than 50 percent in recent years as reported by the Standing Committee on Research and Statistics and other independent sources monitoring the fishery;

Whereas insufficient data reporting in combination with unreliable national catch statistics resulting from inadequate or nonexistent catch monitoring and observer programs has frequently undermined efforts by the Commission to determine the levels of overharvests by specific countries;

Whereas the failure of many Commission members fishing for eastern Atlantic and Mediterranean bluefin tuna east of 45 degrees west longitude to comply with other Commission recommendations to conserve and control the overfished eastern Atlantic and Mediterranean bluefin tuna stock has been an ongoing problem;

Whereas it is widely recognized that some fishing vessels, in particular those participating in illegal, unregulated, and unreported fishing, have little incentive to cease these infractions due to a lack of adequate sanctions;

Whereas the Commission's Standing Committee on Research and Statistics noted in its 2008 stock assessment that the fishing mortality rate for the eastern Atlantic and Mediterranean stock was more than 3 times the level that would permit the stock to stabilize at the maximum sustainable catch level and that unless fishing mortality rates are substantially reduced in the near future, further reduction in spawning stock biomass is likely to occur leading to a risk of fisheries and stock collapse;

Whereas the Commission's Standing Committee on Research and Statistics has recommended that the annual harvest levels for eastern Atlantic and Mediterranean bluefin tuna be reduced to levels between 15,000 and 8,500 metric tons to halt the decline of the resource and initiate rebuilding, and indicated that a total allowable catch of 8,500 has a higher probability of rebuilding the stock within the Commission's established time frame;

Whereas in 2006, the Commission adopted the ''Recommendation by ICCAT to Establish a Multi-Annual Recovery Plan for Bluefin Tuna in the eastern Atlantic and Mediterranean'' (Recommendation 06–05), which was amended in 2008, containing a wide range of management, monitoring, and control measures designed to facilitate the recovery of the eastern Atlantic and Mediterranean bluefin tuna stock by the year 2023;

Whereas the Recovery Plan is inadequate and allows overfishing and stock decline to continue, and continuing information and repeated warnings by the Standing Committee on Research and Statistics indicate that current implementation of the plan is unlikely to achieve its goals;

Whereas the Principality of Monaco has submitted a petition to list Atlantic bluefin tuna under Appendix I of the Convention on International Trade in Endangered Species of Fauna and Flora, and while the United States did not cosponsor this petition, the Administration has expressed its support for this petition unless the Commission ''adopts significantly strengthened management and compliance measures'' for countries fishing on the eastern Atlantic and Mediterranean bluefin tuna stock;

Whereas since 1981, the Commission has adopted additional and more restrictive conservation and management recommendations for the western Atlantic bluefin tuna stock, including a closure to directed fishing in the spawning grounds of the Gulf of Mexico, and these recommendations have been fully implemented by Nations fishing west of 45 degrees west longitude;

Whereas despite adopting, fully implementing, and complying with a science-based rebuilding program for the western Atlantic bluefin tuna stock by countries fishing west of 45 degrees west longitude, catches and catch rates remain very low, especially for the United States;

Whereas scientific evidence now provides indisputable evidence from electronic tagging studies and other scientific research that mixing of the eastern and western Atlantic bluefin tuna stocks occurs throughout the Atlantic ocean on feeding and fishing grounds, and the poor management and noncompliance with the Commission's Recovery Plan for the eastern Atlantic stock is having an adverse impact on the western Atlantic stock and United States fisheries;

Whereas additional research on stock mixing will improve the understanding of the relationship between eastern and western bluefin tuna stocks, which will assist in the conservation, recovery, and management of the species throughout its range;

Whereas a 2008 Independent Review of the Commission concluded that the Commission's management of bluefin tuna in the eastern Atlantic and Mediterranean has been ''widely regarded as an international disgrace'': Now, therefore, be it

Resolved, That it is the sense of the Senate that the United States delegation to the 21st Regular Meeting of the International Commission for the Conservation of Atlantic Tunas, should—

(1) seek the adoption of all revisions to the Recovery Plan for eastern Atlantic and Mediterranean bluefin tuna that will conform the Plan to the scientific advice provided by the Standing Committee on Research and Statistics and has a high probability of achieving the established rebuilding target within the established time frame, including a strict penalty regime and other appropriate mechanisms to verify and ensure compliance;

(2) seek to expand time and area closures of spawning areas in the Mediterranean in full conformity with the scientific advice provided by the Standing Committee on Research and Statistics;

(3) pursue the continued aggressive review and assessment by the Commission's Committee on Compliance of compliance with conservation and management measures, including data collection and reporting requirements, adopted by the Commission and in effect for the 2009 eastern Atlantic and Mediterranean bluefin tuna fishery, occurring east of 45 degrees west longitude, and other fisheries that are subject to the jurisdiction of the Commission;

(4) aggressively seek to address noncompliance with such measures by all parties to the Convention through all appropriate actions;

(5) pursue the commitment by the Commission and its parties to fund additional research on both the western Atlantic and eastern Atlantic and Mediterranean bluefin tuna stocks including but not limited to the extent to which the stocks mix; and

(6) strenuously defend the interests of United States with regard to Atlantic bluefin tuna, Atlantic swordfish, and other species managed by the Commission, including the protection of U.S. quota shares.

SENATE RESOLUTION 347—CONGRATULATING THE NEW YORK YANKEES ON WINNING THE 2009 WORLD SERIES

Mr. SCHUMER (for himself and Mrs. GILLIBRAND) submitted the following resolution; which was referred to the Committee on Commerce, Science, and Transportation:

S. RES. 347

Whereas on November 4, 2009, the New York Yankees won the 2009 World Series with a 7–3 victory over the Philadelphia Phillies in Game 6 of the series;

Whereas the Philadelphia Phillies deserve great credit for their remarkable performance in 2009, during both the regular season and the playoffs;

Whereas the New York Yankees are the winningest franchise in the history of professional sports;

Whereas the New York Yankees have won 27 World Series titles, the most by any Major League Baseball franchise;

Whereas the New York Yankees have played for 96 seasons in the city of New York;

Whereas the New York Yankees' dominance was ignited in 1920 with the appearance of the indomitable Babe Ruth in pinstripes;

Whereas the New York Yankees have fielded historic teams, including the famed ''Murderers' Row'' in 1927;

Whereas the New York Yankees became an iconic baseball franchise during the 1950's by winning 5 World Series titles in a row;

Whereas the New York Yankees won their first championship in 1923, the year that the original Yankee Stadium opened, and won their 27th championship in 2009, the year that the new Yankee Stadium opened;

Whereas the New York Yankees have had a player win the American League batting title 9 times;

Whereas the New York Yankees have retired 16 uniform numbers for 17 baseball legends;

Whereas the New York Yankees are represented in the National Baseball Hall of Fame by 26 players, each of whom was inducted wearing the distinctive New York Yankees cap;

Whereas George Steinbrenner purchased the New York Yankees in 1973 and returned the team to prominence by winning 7 World Series championships under his direction;

Whereas in 2009, the New York Yankees won a total of 114 games and claimed the American League East Division title, the American League championship, and the World Series championship;

Whereas the New York Yankees were led by manager Joe Girardi, future Hall of Famers Derek Jeter and Mariano Rivera, who both continued their legacies of postseason excellence, and Hideki Matsui, the first Japanese-born player to win the World Series Most Valuable Player Award; and

Whereas the New York Yankees are the model franchise in sports for meeting the high standards that they have set for themselves: Now, therefore, be it

Resolved, That the Senate—

(1) congratulates the New York Yankees on winning the 2009 World Series; and

(2) recognizes and honors the New York Yankees for—

(A) their storied history;

(B) their many contributions to the national pastime of baseball; and

(C) continuing to carry the standards of character, commitment, and achievement for baseball and the State of New York.

SENATE RESOLUTION 348—SUPPORTING THE GOALS AND IDEALS OF PANCREATIC CANCER AWARENESS MONTH

Mr. CASEY (for himself; Mr. WHITEHOUSE, Mr. SCHUMER, Mr. SPECTER, Mr. CARDIN, Mr. UDALL of Colorado, Mr. LAUTENBERG, Mr. BAYH, and Mr. BEGICH) submitted the following resolution; which was referred to the Committee on Health, Education, Labor, and Pensions:

S. RES. 348

Whereas approximately 42,470 people will be diagnosed with pancreatic cancer this year in the United States;

Whereas pancreatic cancer is the fourth most common cause of cancer death in the United States and the tenth most commonly diagnosed cancer;

Whereas 76 percent of pancreatic cancer patients die within the first year of their diagnosis and only 5 percent survive more than 5 years, making pancreatic cancer the deadliest form of any major cancer;

Whereas the number of new pancreatic cancer cases is projected to increase by 12 percent this year and by 55 percent by 2030;

Whereas there has been no significant improvement in survival rates for pancreatic cancer during the last 30 years;

Whereas there are no early detection methods and minimal treatment options for pancreatic cancer;

Whereas the symptoms of pancreatic cancer generally present themselves too late for an optimistic prognosis, and the average survival rate of individuals diagnosed with metastatic pancreatic cancer is only 3 to 6 months;

Whereas the incidence rate of pancreatic cancer is 50 percent higher for African-Americans than for other ethnic groups; and

Whereas it would be appropriate to observe November 2009 as Pancreatic Cancer Awareness Month to educate communities across the Nation about pancreatic cancer and the need for research funding, early detection methods, effective treatments, and treatment programs: Now, therefore, be it

Resolved, That the Senate supports the goals and ideals of Pancreatic Cancer Awareness Month.

AMENDMENTS SUBMITTED AND PROPOSED

SA 2746. Mr. FEINGOLD submitted an amendment intended to be proposed to amendment SA 2730 proposed by Mr. JOHNSON (for himself and Mrs. HUTCHISON) to the bill H.R. 3082, making appropriations for military construction, the Department of Veterans Affairs, and related agencies for the fiscal year ending September 30, 2010, and for other purposes; which was ordered to lie on the table.

SA 2747. Mr. FEINGOLD submitted an amendment intended to be proposed to amendment SA 2730 proposed by Mr. JOHNSON (for himself and Mrs. HUTCHISON) to the bill H.R. 3082, supra; which was ordered to lie on the table.

SA 2748. Mr. FEINGOLD (for himself, Mr. SANDERS, and Mr. SCHUMER) submitted an amendment intended to be proposed to amendment SA 2730 proposed by Mr. JOHNSON (for himself and Mrs. HUTCHISON) to the bill H.R. 3082, supra; which was ordered to lie on the table.

SA 2749. Mr. BINGAMAN (for himself and Mr. UDALL, of New Mexico) submitted an amendment intended to be proposed to amendment SA 2730 proposed by Mr. JOHNSON (for himself and Mrs. HUTCHISON) to the bill H.R. 3082, supra; which was ordered to lie on the table.

SA 2750. Ms. MIKULSKI (for herself and Mr. GRASSLEY) submitted an amendment intended to be proposed by her to the bill H.R. 3082, supra; which was ordered to lie on the table.

SA 2751. Mr. COCHRAN submitted an amendment intended to be proposed to amendment SA 2730 proposed by Mr. JOHNSON (for himself and Mrs. HUTCHISON) to the bill H.R. 3082, supra; which was ordered to lie on the table.

SA 2752. Mr. JOHANNS (for himself and Mr. BENNETT) submitted an amendment intended to be proposed to amendment SA 2730 proposed by Mr. JOHNSON (for himself and Mrs. HUTCHISON) to the bill H.R. 3082, supra; which was ordered to lie on the table.

SA 2753. Mr. JOHNSON (for himself and Mrs. HUTCHISON) submitted an amendment intended to be proposed to amendment SA 2730 proposed by Mr. JOHNSON (for himself and Mrs. HUTCHISON) to the bill H.R. 3082, supra; which was ordered to lie on the table.

SA 2754. Mr. INOUYE (for himself, Mr. COCHRAN, and Mr. JOHNSON) submitted an amendment intended to be proposed to amendment SA 2730 proposed by Mr. JOHNSON (for himself and Mrs. HUTCHISON) to the bill H.R. 3082, supra.

SA 2755. Mr. LEVIN submitted an amendment intended to be proposed to amendment SA 2730 proposed by Mr. JOHNSON (for himself and Mrs. HUTCHISON) to the bill H.R. 3082, supra; which was ordered to lie on the table.

SA 2756. Mr. WEBB submitted an amendment intended to be proposed to amendment SA 2730 proposed by Mr. JOHNSON (for himself and Mrs. HUTCHISON) to the bill H.R. 3082, supra; which was ordered to lie on the table.

SA 2757. Mr. COBURN submitted an amendment intended to be proposed to amendment SA 2730 proposed by Mr. JOHNSON (for himself and Mrs. HUTCHISON) to the bill H.R. 3082, supra.

SA 2758. Mr. INHOFE (for himself, Mr. BROWNBACK, Mr. CORNYN, Mr. HATCH, Mr. KYL, Mr. THUNE, Mr. VITTER, Mr. DEMINT, Mr. ENZI, Mr. ROBERTS, and Mr. BENNETT) submitted an amendment intended to be proposed to amendment SA 2730 proposed by Mr. JOHNSON (for himself and Mrs. HUTCHISON) to

the bill H.R. 3082, supra; which was ordered to lie on the table.

SA 2759. Mr. DURBIN submitted an amendment intended to be proposed to amendment SA 2730 proposed by Mr. JOHNSON (for himself and Mrs. HUTCHISON) to the bill H.R. 3082, supra.

SA 2760. Mr. DURBIN submitted an amendment intended to be proposed to amendment SA 2730 proposed by Mr. JOHNSON (for himself and Mrs. HUTCHISON) to the bill H.R. 3082, supra.

SA 2761. Ms. MIKULSKI submitted an amendment intended to be proposed to amendment SA 2730 proposed by Mr. JOHNSON (for himself and Mrs. HUTCHISON) to the bill H.R. 3082, supra; which was ordered to lie on the table.

SA 2762. Mrs. GILLIBRAND submitted an amendment intended to be proposed to amendment SA 2730 proposed by Mr. JOHNSON (for himself and Mrs. HUTCHISON) to the bill H.R. 3082, supra; which was ordered to lie on the table.

SA 2763. Mr. COCHRAN submitted an amendment intended to be proposed to amendment SA 2730 proposed by Mr. JOHNSON (for himself and Mrs. HUTCHISON) to the bill H.R. 3082, supra; which was ordered to lie on the table.

SA 2764. Ms. KLOBUCHAR submitted an amendment intended to be proposed to amendment SA 2730 proposed by Mr. JOHNSON (for himself and Mrs. HUTCHISON) to the bill H.R. 3082, supra; which was ordered to lie on the table.

SA 2765. Ms. KLOBUCHAR submitted an amendment intended to be proposed to amendment SA 2730 proposed by Mr. JOHNSON (for himself and Mrs. HUTCHISON) to the bill H.R. 3082, supra; which was ordered to lie on the table.

SA 2766. Mrs. FEINSTEIN submitted an amendment intended to be proposed to amendment SA 2730 proposed by Mr. JOHNSON (for himself and Mrs. HUTCHISON) to the bill H.R. 3082, supra; which was ordered to lie on the table.

SA 2767. Mr. MCCAIN submitted an amendment intended to be proposed to amendment SA 2735 submitted by Mr. INOUYE (for himself, Mr. COCHRAN, and Mr. JOHNSON) and intended to be proposed to the amendment SA 2730 proposed by Mr. JOHNSON (for himself and Mrs. HUTCHISON) to the bill H.R. 3082, supra; which was ordered to lie on the table.

SA 2768. Mr. REID (for Mr. LIEBERMAN) proposed an amendment to the bill S. 1825, to extend the authority for relocation expenses test programs for Federal employees, and for other purposes.

SA 2769. Mr. REID (for Mr. DODD) proposed an amendment to the resolution S. Res. 312, expressing the sense of the Senate on empowering and strengthening the United States Agency for International Development (USAID).

SA 2770. Mr. REID (for Mr. DODD) proposed an amendment to the resolution S. Res. 312, supra.

TEXT OF AMENDMENTS

SA 2746. Mr. FEINGOLD submitted an amendment intended to be proposed to amendment SA 2730 proposed by Mr. JOHNSON (for himself and Mrs. HUTCHISON) to the bill H.R. 3082, making appropriations for military construction, the Department of Veterans Affairs, and related agencies to the fiscal year ending September 30, 2010, and for other purposes; which was ordered to lie on the table; as follows:

On page 27, between lines 3 and 4, insert the following:

SEC. 128. (a) During each of fiscal years 2010 through 2014, the Secretary of Defense shall submit to the congressional defense committees a report analyzing alternative designs for any major construction projects requested in that fiscal year related to the security of strategic nuclear weapons facilities.

(b) The report shall examine, with regard to each alternative—

(1) the costs, including full life cycle costs; and

(2) the benefits, including security enhancements.

SA 2747. Mr. FEINGOLD submitted an amendment intended to be proposed to amendment SA 2730 proposed by Mr. JOHNSON (for himself and Mrs. HUTCHISON) to the bill H.R. 3082, making appropriations for military construction, the Department of Veterans Affairs, 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 52, after line 21, add the following:

SEC. 229. (a) CAMPUS OUTREACH AND SERVICES FOR MENTAL HEALTH AND NEUROLOGICAL CONDITIONS.—Of the amounts appropriated or otherwise made available by this title, $5,000,000 shall be available for readjustment counseling and related mental health services under section 1712A of title 38, United States Code, to conduct outreach to and provide services at institutions of higher education to ensure that veterans enrolled in programs of education at such institutions have information on and access to care and services for neurological and psychological issues.

(b) SUPPLEMENT NOT SUPPLANT.—The amount described in subsection (a) for the purposes described in such subsection is in addition to amounts otherwise appropriated or made available for readjustment counseling and related mental health services under such section 1712A.

SA 2748. Mr. FEINGOLD (for himself, Mr. SANDERS, and Mr. SCHUMER) submitted an amendment intended to be proposed to amendment SA 2730 proposed by Mr. JOHNSON (for himself and Mrs. HUTCHISON) to the bill H.R. 3082, making appropriations for military construction, the Department of Veterans Affairs, 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 52, after line 21, add the following:

SEC. 229. Of the amounts appropriated or otherwise made available by this title, the Secretary shall award $5,000,000 in competitively-awarded grants to community-based organizations and State and local government entities with a demonstrated record of serving veterans to conduct outreach to ensure that veterans in under-served areas receive the care and benefits for which they are eligible.

SA 2749. Mr. BINGAMAN (for himself and Mr. UDALL of New Mexico) submitted an amendment intended to be proposed to amendment SA 2730 proposed by Mr. JOHNSON (for himself and Mrs. HUTCHISON) to the bill H.R. 3082, making appropriations for military construction, the Department of Veterans Affairs, 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 27, between lines 3 and 4, insert the following:

SEC. 128. (a)(1) The amount appropriated or otherwise made available by this title under the heading ''MILITARY CONSTRUCTION, AIR FORCE'' is hereby increased by $37,500,000.

(2) Of the amount appropriated or otherwise made available by this title under the heading ''MILITARY CONSTRUCTION, AIR FORCE'', as increased by paragraph (1), $37,500,000 shall be available for construction of an Unmanned Aerial System Field Training Complex at Holloman Air Force Base, New Mexico.

(b) Of the amount appropriated or otherwise made available by title I of the Military Construction and Veterans Affairs Appropriations Act, 2009 (division E of Public Law 110–329; 122 Stat. 3692) under the heading ''MILITARY CONSTRUCTION, AIR FORCE'' and available for the purpose of Unmanned Aerial System Field Training facilities construction, $38,500,000 is hereby rescinded.

SA 2750. Ms. MIKULSKI (for herself and Mr. GRASSLEY) submitted an amendment intended to be proposed by her to the bill H.R. 3082, making appropriations for military construction, the Department of Veterans Affairs, 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:

At the appropriate place, insert the following:

SEC. ___. ADMISSION OF NONIMMIGRANT NURSES.

(a) 1-YEAR EXTENSION FOR ADMISSION OF NONIMMIGRANT NURSES IN HEALTH PROFESSIONAL SHORTAGE AREAS.—Section 2(e)(2) of the Nursing Relief for Disadvantaged Areas Act of 1999 (8 U.S.C. 1182 note) is amended by striking ''3 years'' and inserting ''4 years''.

(b) NURSE SHORTAGE FEE.—Section 212(m)(2) of the Immigration and Nationality Act (8 U.S.C. 1182(m)(2)) is amended by adding at the end the following:

''(G)(i) In addition to the fee authorized under subparagraph (F), the Secretary of Labor shall impose a filing fee of $1,000 on each petitioning employer who uses a visa under subparagraph (A).

''(ii) Fees collected under this subparagraph shall be deposited as offsetting receipts in a fund established in the Treasury of the United States to support the Nurse Faculty Loan Program authorized under section 846A of the Public Health Service Act (42 U.S.C. 297n–1).

''(iii) No fee shall be imposed for the use of such visas if the employer demonstrates to the Secretary that the employer is a health care facility that has been designated as a Health Professional Shortage Area facility by the Secretary of Health and Human Services under section 332 of the Public Health Service Act (42 U.S.C. 254e)''.

SA 2751. Mr. COCHRAN submitted an amendment intended to be proposed to amendment SA 2730 proposed by Mr. JOHNSON (for himself and Mrs. HUTCHISON) to the bill H.R. 3082, making appropriations for military construction, the Department of Veterans Affairs, 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 4, line 6, after the date, insert the following:

Of which $9,800,000 shall be for an Aircraft Fuel Systems Maintenance Dock at Columbus AFB, Mississippi

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SA 2752. Mr. JOHANNS submitted an amendment intended to be proposed to amendment SA 2730 proposed by Mr. JOHNSON (for himself and Mrs. HUTCHISON) to the bill H.R. 3082, making appropriations for military construction, the Department of Veterans Affairs, 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 60, after line 24, insert the following:

SEC. 6____. None of the funds made available under this Act may be distributed to the Association of Community Organizations for Reform Now (ACORN) or its subsidiaries.

SA 2753. Mr. JOHNSON (for himself and Mrs. HUTCHISON) submitted an amendment intended to be proposed to amendment SA 2730 proposed by Mr. JOHNSON (for himself and Mrs. HUTCHISON) to the bill H.R. 3082, making appropriations for military construction, the Department of Veterans Affairs, 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 56, between lines 9 and 10, insert the following:

ADMINISTRATIVE PROVISION

SEC. 401. (a)(1) The amount appropriated or otherwise made available by this title under the heading ''MILITARY CONSTRUCTION, ARMY'' and available for a dining hall project at Forward Operating Base Dwyer is hereby increased by $4,400,000.

(2) The amount appropriated or otherwise made available by this title under the heading ''MILITARY CONSTRUCTION, ARMY'' and available for a dining hall project at Forward Operating Base Maywand is hereby reduced by $4,400,000.

(b)(1) The amount appropriated or otherwise made available by this title under the heading ''MILITARY CONSTRUCTION, ARMY'' and available for a dining hall project at Forward Operating Base Wolverine is hereby increased by $2,150,000.

(2) The amount appropriated or otherwise made available by this title under the heading ''MILITARY CONSTRUCTION, ARMY'' and available for a dining hall project at Forward Operating Base Tarin Kowt is hereby reduced by $2,150,000.

SA 2754. Mr. INOUYE (for himself, Mr. COCHRAN, and Mr. JOHNSON) submitted an amendment intended to be proposed to amendment SA 2730 proposed by Mr. JOHNSON (for himself and Mrs. HUTCHISON) to the bill H.R. 3082, making appropriations for military construction, the Department of Veterans Affairs, and related agencies for the fiscal year ending September 30, 2010, and for other purposes; as follows:

On page 27, between lines 3 and 4, insert the following:

SEC. 128. (a)(1) The amount appropriated or otherwise made available by this title under the heading ''MILITARY CONSTRUCTION, DEFENSE-WIDE'' is hereby increased by $68,500,000, with the amount of such increase to remain available until September 30, 2014.

(2) Of the amount appropriated or otherwise made available by this title under the heading ''MILITARY CONSTRUCTION, DEFENSE-WIDE'', as increased by paragraph (1), $68,500,000 shall be available for the construction of an Aegis Ashore Test Facility at the Pacific Missile Range Facility, Hawaii. Notwithstanding any other provision of law, such funds may be obligated and expended to carry out planning and design and construction not otherwise authorized by law.

(b) Of the amount appropriated or otherwise made available by title I of the Military Construction and Veterans Affairs Appropriations Act, 2009 (division E of Public Law 110–329; 122 Stat. 3692) under the heading ''MILITARY CONSTRUCTION, DEFENSE-WIDE'' and available for the purpose of European Ballistic Missile Defense program construction, $69,500,000 is hereby rescinded.

SA 2755. Mr. LEVIN submitted an amendment intended to be proposed to amendment SA 2730 proposed by Mr. JOHNSON (for himself and Mrs. HUTCHISON) to the bill H.R. 3082, making appropriations for military construction, the Department of Veterans Affairs, 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 60, after line 24, add the following:

SEC. 608. Of the amounts appropriated for the Edward Byrne Memorial Justice Assistance Grant Program under subpart 1 of part E of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3750 et seq.) under the heading ''STATE AND LOCAL LAW ENFORCEMENT ASSISTANCE'' under the heading ''OFFICE OF JUSTICE PROGRAMS'' under the heading ''STATE AND LOCAL LAW ENFORCEMENT ACTIVITIES'' under title II of the Omnibus Appropriations Act, 2009 (Public Law 111–8; 123 Stat. 579), at the discretion of the Attorney General, the amounts to be made available to Genesee County, Michigan for assistance for individuals transitioning from prison in Genesee County, Michigan pursuant to the joint statement of managers accompanying that Act may be made available to My Brother's Keeper of Genesee County, Michigan to provide assistance for individuals transitioning from prison in Genesee County, Michigan.

SA 2756. Mr. WEBB submitted an amendment intended to be proposed to amendment SA 2730 proposed by Mr. JOHNSON (for himself and Mrs. HUTCHISON) to the bill H.R. 3082, making appropriations for military construction, the Department of Veterans Affairs, 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 60, after line 24, add the following:

SEC. 608. At the discretion of the Attorney General, amounts appropriated under the heading ''COMMUNITY ORIENTED POLICING SERVICES'' under the heading ''OFFICE OF JUSTICE PROGRAMS'' under title II of division B of the Omnibus Appropriations Act, 2009 (Public Law 111–8; 123 Stat. 583) for law enforcement technologies and interoperable communications for Southside Virginia law enforcement for technology upgrades may be available to the sheriffs' offices of Pittsylvania, Cumberland, Bedford, Henry, Brunswick, Campbell, and Greene counties in Virginia and the Sheriff's Office of the City of Martinsville, Virginia for law enforcement technology.

SA 2757. Mr. COBURN submitted an amendment intended to be proposed to amendment SA 2730 proposed by Mr. JOHNSON (for himself and Mrs. HUTCHISON) to the bill H.R. 3082, making appropriations for military construction, the Department of Veterans Affairs, and related agencies for the fiscal year ending September 30, 2010, and for other purposes; as follows:

At the appropriate place, insert the following:

SEC. _____. (a) Notwithstanding any other provision of this Act and except as provided in subsection (b), any report required to be submitted by a Federal agency or department to the Committee on Appropriations of either the Senate or the House of Representatives in this Act shall be posted on the public website of that agency upon receipt by the committee.

(b) Subsection (a) shall not apply to a report if—

(1) the public posting of the report compromises national security; or

(2) the report contains proprietary information.

SA 2758. Mr. INHOFE (for himself, Mr. BROWNBACK, Mr. CORNYN, Mr. HATCH, Mr. KYL, Mr. THUNE, Mr. VITTER, Mr. DEMINT, Mr. ENZI, and Mr. ROBERTS) submitted an amendment intended to be proposed to amendment SA 2730 proposed by Mr. JOHNSON (for himself and Mrs. HUTCHISON) to the bill H.R. 3082, making appropriations for military construction, the Department of Veterans Affairs, 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 60, after line 24, add the following:

SEC. 608. (a) None of the funds appropriated or otherwise made available by this Act or any prior Act may be used to construct or modify a facility or facilities in the United States or its territories to permanently or temporarily hold any individual who was detained as of October 1, 2009, at Naval Station, Guantanamo Bay, Cuba.

(b) In this section, the term ''United States'' means the several States and the District of Columbia.

SA 2759. Mr. DURBIN submitted an amendment intended to be proposed to amendment SA 2730 proposed by Mr. JOHNSON (for himself and Mrs. HUTCHISON) to the bill H.R. 3082, making appropriations for military construction, the Department of Veterans Affairs, and related agencies for the fiscal year ending September 30, 2010, and for other purposes; as follows:

On page 52, after line 21, add the following:

SEC. 229. (a)(1)(A) Of the amount made available by this title for the Veterans Health Administration under the heading ''MEDICAL SERVICES'', $1,500,000 shall be available to allow the Secretary of Veterans Affairs to offer incentives to qualified health care providers working in underserved rural areas designated by the Veterans Health Administration, in addition to amounts otherwise available for other pay and incentives.

(B) Health care providers shall be eligible for incentives pursuant to this paragraph only for the period of time that they serve in designated areas.

(2)(A) Of the amount made available by this title for the Veterans Health Administration under the heading ''MEDICAL SUPPORT AND COMPLIANCE'', $1,500,000 shall be available to allow the Secretary of Veterans Affairs to offer incentives to qualified health

care administrators working in underserved rural areas designated by the Veterans Health Administration, in addition to amounts otherwise available for other pay and incentives.

(B) Health care administrators shall be eligible for incentives pursuant to this paragraph only for the period of time that they serve in designated areas.

(b) Not later than March 31, 2010, the Secretary of Veterans Affairs shall submit to the Committees on Veterans' Affairs and Appropriations of the Senate and the House of Representatives a report detailing the number of new employees receiving incentives under the pilot program established pursuant to this section, describing the potential for retaining those employees, and explaining the structure of the program.

SA 2760. Mr. DURBIN submitted an amendment intended to be proposed to amendment SA 2730 proposed by Mr. JOHNSON (for himself and Mrs. HUTCHISON) to the bill H.R. 3082, making appropriations for military construction, the Department of Veterans Affairs, and related agencies for the fiscal year ending September 30, 2010, and for other purposes; as follows:

At the end of title II, add the following:

SEC. 229. (a) NAMING OF HEALTH CARE CENTER.—Effective October 1, 2010, the North Chicago Veterans Affairs Medical Center located in Lake County, Illinois, shall be known and designated as the ''Captain James A. Lovell Federal Health Care Center''.

(b) REFERENCES.—Any reference to the medical center referred to in subsection (a) in any law, regulation, map, document, record, or other paper of the United States shall be considered to be a reference to the Captain James A. Lovell Federal Health Care Center.

SA 2761. Ms. MIKULSKI submitted an amendment intended to be proposed to amendment SA 2730 proposed by Mr. JOHNSON (for himself and Mrs. HUTCHISON) to the bill H.R. 3082, making appropriations for military construction, the Department of Veterans Affairs, 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:

At the end of title II, add the following:

SEC. 229. (a) FUNDING FOR WHITE HOUSE COMMISSION ON THE NATIONAL MOMENT OF REMEMBRANCE.—Of the amount appropriated or otherwise made available by this title under the heading ''DEPARTMENTAL ADMINISTRATION'' under the heading ''GENERAL OPERATING EXPENSES'', $200,000 shall be available for the White House Commission on the National Moment of Remembrance established by section 5 of the National Moment of Remembrance Act (36 U.S.C. 116 note) for activities under that Act.

(b) SENSE OF SENATE.—It is the sense of the Senate that the budget of the President for each fiscal year after fiscal year 2010 should include a specific request for funds for the White House Commission on the National Moment of Remembrance for activities under that Act during such fiscal year.

SA 2762. Mrs. GILLIBRAND submitted an amendment intended to be proposed to amendment SA 2730 proposed by Mr. JOHNSON (for himself and Mrs. HUTCHISON) to the bill H.R. 3082, making appropriations for military construction, the Department of Veterans Affairs, 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:

At the end of title II, add the following:

SEC. 229. (a) REPORT ON PLANS FOR EXAMINING ASSOCIATION BETWEEN DISEASES IN CHILDREN AND EXPOSURE OF PARENTS TO HERBICIDE AGENTS USED IN MILITARY OPERATIONS IN VIETNAM.—Not later than six months after the date of the enactment of this Act, the Secretary of Veterans Affairs shall submit to the Committee on Veterans' Affairs of the Senate and the Committee on Veterans' Affairs of the House of a Representatives a report on the plans of the Department of Veterans Affairs to examine the association between diseases in children and the exposure of their parents to herbicides used in support of military operations in Vietnam.

(b) ELEMENTS.—The report required by subsection (a) shall include the following:

(1) A description of current efforts of the Department of Veterans Affairs to examine the association between diseases in children and the exposure of their parents to herbicides used in support of military operations in Vietnam.

(2) A plan for a study by the Department to examine potential associations between diseases in children and the exposure of their parents to herbicides used in support of military operations in Vietnam, including a plan to—

(A) review current scientific literature on such associations and identify any gaps in scientific knowledge regarding such associations.

(B) carry out actions to address any gaps identified under subparagraph (A).

(3) A statement of the agencies, organizations, or entities with which the Department will carry out review and actions set forth under paragraph (2).

(4) A statement of the estimated cost of the study described in paragraph (2).

SA 2763. Mr. COCHRAN submitted an amendment intended to be proposed to amendment SA 2730 proposed by Mr. JOHNSON (for himself and Mrs. HUTCHISON) to the bill H.R. 3082, making appropriations for military construction, the Department of Veterans Affairs, 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:

At the end of title II, add the following:

SEC. 229. (a) MODIFICATION ON RESTRICTION OF ALIENATION OF CERTAIN REAL PROPERTY IN GULFPORT, MISSISSIPPI.—Section 2703(b) of the Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Hurricane Recovery, 2006 (Public Law 109–234; 120 Stat. 469), as amended by section 231 of the Military Construction and Veterans Affairs and Related Agencies Appropriations Act, 2009 (division E of Public Law 110–329; 122 Stat. 3713), is further amended by inserting after ''the City of Gulfport'' the following: '', or its urban renewal agency,''.

(b) MEMORIALIZATION OF MODIFICATION.—The Secretary of Veterans Affairs shall take appropriate actions to modify the quitclaim deeds executed to effectuate the conveyance authorized by section 2703 of the Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Hurricane Recovery, 2006 in order to accurately reflect and memorialize the amendment made by subsection (a).

SA 2764. Ms. KLOBUCHAR submitted an amendment intended to be proposed to amendment SA 2730 proposed by Mr. JOHNSON (for himself and Mrs. HUTCHISON) to the bill H.R. 3082, making appropriations for military construction, the Department of Veterans Affairs, 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 52, after line 21, add the following:

SEC. 229. (a) STUDY ON IMPROVEMENTS TO INFORMATION TECHNOLOGY INFRASTRUCTURE NEEDED TO FURNISH HEALTH CARE SERVICES TO VETERANS USING TELEHEALTH PLATFORMS.—The Secretary of Veterans Affairs shall carry out a study to identify the improvements to the information technology infrastructure of the Department of Veterans Affairs that are required to furnish health care services to veterans using telehealth platforms.

(b) AVAILABILITY OF FUNDS.—The amounts appropriated or otherwise made available by this title under the headings ''DEPARTMENTAL ADMINISTRATION'' and ''INFORMATION TECHNOLOGY SYSTEMS'' shall be available to the Secretary of Veterans Affairs to carry out the study required by subsection (a).

SA 2765. Ms. KLOBUCHAR submitted an amendment intended to be proposed to amendment SA 2730 proposed by Mr. JOHNSON (for himself and Mrs. HUTCHISON) to the bill H.R. 3082, making appropriations for military construction, the Department of Veterans Affairs, 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 60, after line 24, add the following:

SEC. 608. (a) ADDITIONAL AMOUNT FOR FINANCIAL ASSISTANCE TO FACILITATE FURNISHING OF LEGAL ASSISTANCE TO VETERANS.—The amount appropriated by title III under the heading ''UNITED STATES COURT OF APPEALS FOR VETERANS CLAIMS'' is hereby increased by $1,000,000, with the amount of the increase to be available for the provision of financial assistance as described under that heading.

(b) OFFSET.—The amount appropriated or otherwise made available by title III under the heading ''AMERICAN BATTLE MONUMENTS COMMISSION'' is hereby decreased by $1,000,000.

SA 2766. Mrs. FEINSTEIN submitted an amendment intended to be proposed to amendment SA 2730 proposed by Mr. JOHNSON (for himself and Mrs. HUTCHISON) to the bill H.R. 3082, making appropriations for military construction, the Department of Veterans Affairs, 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 60, after line 24, add the following:

SEC. 608. CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE ARMED FORCES.

(a) IN GENERAL.—Section 1259 of title 28, United States Code, is amended—

(1) in paragraph (3), by inserting ''or denied'' after ''granted''; and

(2) in paragraph (4), by inserting ''or denied'' after ''granted''.

(b) TECHNICAL AND CONFORMING AMENDMENT.—Section 867a(a) of title 10, United States Code, is amended by striking ''The Supreme Court may not review by a writ of certiorari under this section any action of

the Court of Appeals for the Armed Forces in refusing to grant a petition for review.''.

SA 2767. Mr. MCCAIN submitted an amendment intended to be proposed to amendment SA 2735 submitted by Mr. INOUYE (for himself, Mr. COCHRAN, and Mr. JOHNSON) and intended to be proposed to the amendment SA 2730 proposed by Mr. JOHNSON (for himself and Mrs. HUTCHISON) to the bill H.R. 3082, making appropriations for military construction, the Department of Veterans Affairs, 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 2 of the amendment, beginning on line 8, strike ''Notwithstanding'' and all that follows through line 11.

SA 2768. Mr. REID (for Mr. LIEBERMAN) proposed an amendment to the bill S. 1825, to extend the authority for relocation expenses test programs for Federal employees, and for other purposes; as follows:

On page 3, line 5, strike ''October 31, 2009'' and insert ''December 18, 2009''.

SA 2769. Mr. REID (for Mr. DODD) proposed an amendment to the resolution S. Res. 312, expressing the sense of the Senate on empowering and strengthening the United States Agency for International Development (USAID); as follows:

Strike all after the resolving clause and insert the following:

That it is the sense of the Senate that—

(1) a highly capable and knowledgeable individual should be nominated with all expediency and exigency to serve as the Administrator of the United States Agency for International Development;

(2) the Administrator should—

(A) serve as the chief advocate for United States development capacity and strategy in top-level national security deliberations;

(B) serve as a powerful advocate and effective leader of an empowered USAID; and

(C) marshal the resources, knowledge, capacity, and experiences of USAID—

(i) to effectively represent USAID in interagency debate and in advancing and executing foreign policy; and

(ii) to improve ultimately the effectiveness and capability of United States foreign assistance;

(3) USAID must be empowered to be the primary development agency of the United States, and the Administrator must serve as the principal advisor to the President and national security organs of the United States Government on the capacity and strategy of United States development assistance;

(4) the Administrator should substantially and transparently increase the total number of full-time Foreign Service Officers employed by USAID, in part by reducing the reliance on outside contractor personnel, in order to enhance the ability of the agency to—

(A) carry out development activities around the world by providing USAID with additional human resources and expertise needed to meet important development and humanitarian needs around the world;

(B) strengthen the institutional capacity of USAID as the lead development agency of the United States; and

(C) more effectively help developing nations to become more stable, healthy, democratic, prosperous, and self-sufficient; and

(5) the Administrator should submit a strategy to Congress that includes—

(A) a plan to create a professional training program that will provide new and current Agency employees with technical, management, leadership, and language skills;

(B) a 5-year staffing plan;

(C) a description of further resources and statutory changes necessary to implement the proposed training and staffing plans; and

(D) a plan to address fraud and corruption in United States development assistance and procedures to safeguard United States foreign assistance funds from going to persons or organizations that advocate or engage in acts of international terrorism.

SA 2770. Mr. REID (for Mr. DODD) proposed an amendment to the resolution S. Res. 312, expressing the sense of the Senate on empowering and strengthening the United States Agency for International Development (USAID); as follows:

Strike the eighth whereas clause of the preamble.

In the tenth whereas clause of the preamble, strike ''all aid programs are administered by Federal agencies other than USAID, and development funding'' and insert ''all foreign assistance programs are administered by Federal agencies other than USAID, and funding for such programs''.

NOTICE OF HEARING

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. BINGAMAN. Mr. President, I would like to announce for the information of the Senate and the public that a hearing has been scheduled before the Senate Committee on Energy and Natural Resources. The hearing will be held on Tuesday, November 17, 2009, at 10 a.m in room SD–366 of the Dirksen Senate Office Building.

The purpose of this hearing is to explore the international aspects of global climate change.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record may do so by sending it to the Committee on Energy and Natural Resources, United States Senate, Washington, D.C. 20510–6150, or by e-mail to Gina_Weinstock @energy.senate.gov.

For further information, please contact Jonathan Black at (202) 224–6722 or Gina Weinstock at (202) 224–5684.

AUTHORITY FOR COMMITTEES TO MEET

SUBCOMMITTEE ON WATER AND WILDLIFE

Mr. DURBIN. Mr. President, I ask unanimous consent that the Subcommittee on Water and Wildlife of the Committee on Environment and Public Works be authorized to meet during the session of the Senate on November 9, 2009, at 3 p.m. in room 406 of the Dirksen Senate Office Building.

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

PRIVILEGES OF THE FLOOR

Mr. REID. Mr. President, I ask unanimous consent, on behalf of Senator DODD, that CPT Lindsay George, a fellow in his office, be granted the privilege of the floor for the consideration of H.R. 3082.

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

ORDER OF BUSINESS

Mr. REID. Madam President, we have worked all day to try to come up with some agreement with the Republicans to move forward on the Military Construction bill. We are hopeful tomorrow that we can do that. Today we have been unsuccessful. We have been unsuccessful, of course, in getting an agreement to move forward on the package of bills dealing with veterans. We will continue to work on a finite list of amendments remaining to the Military Construction and Veterans Affairs Appropriations bill.

In view of the memorial service in Texas, there will be no rollcall votes tomorrow. We have tried to be more definite. I have had a number of Senators who have said they would go if there were no votes. I could not earlier today give them any indication that there would be no votes, but I think at this stage, with the memorial service in Texas taking place and a number of Senators wanting to go, we will have no votes tomorrow. There was some consideration that we would do it after they get back, but we have Veterans Day the next day, so we are going to have no votes until next Monday, a week from today. We will continue to work on the health care legislation and other things that are going to make that week prior to Thanksgiving extremely eventful.

The regular caucus lunch will be held tomorrow, the Democratic lunch at the usual location. President Clinton will be at that lunch to talk to us about health care and certainly he is someone who knows a lot about health care. The Democratic Members are encouraged to attend the caucus luncheon tomorrow. As we know, it starts at 12:30.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider Calendar No. 530, the nomination of David Gompert, to be Principal Deputy Director of National Intelligence; that the nomination be confirmed, and the motion to reconsider be laid upon the table; that no further motions be in order; that any statements relating to the nomination be printed in the RECORD; and that the President be immediately notified of the Senate's action, and the Senate resume legislative session.

The PRESIDING OFFICER (Mr. MERKLEY). Is there objection?

Without objection, it is so ordered.

The nomination considered and confirmed is as follows:

OFFICE OF THE DIRECTOR OF NATIONAL INTELLIGENCE

David C. Gompert, of Virginia, to be Principal Deputy Director of National Intelligence.

Mrs. FEINSTEIN. Mr. President, I support the nomination of Mr. David C. Gompert to be the Principal Deputy Director of National Intelligence and urge my colleagues to support this nomination. The Senate Select Committee on Intelligence unanimously approved Mr. Gompert's nomination by voice vote on October 29.

The Principal Deputy DNI is an extremely important position that has two main responsibilities: 1: to assist the DNI, and 2: to act on behalf of the DNI in his absence or due to a vacancy in the position.

The Director of National Intelligence, Admiral Blair, has made clear to me and to the committee his strong desire to have Mr. Gompert in place to carry out his duties. In fact, Director Blair's predecessor, Admiral Mike McConnell, told the Committee when he was in office that carrying out the DNI function requires a strong and able deputy, and that a lengthy vacancy in the PD-DNI positions was a major problem during his tenure.

Mr. Gompert has made clear that he will assist Director Blair by serving as the lead intelligence official in many policymaking areas, including the numerous National Security Council meetings in which intelligence assessments play a key role.

He will also have an important role to play in assuring that the National Intelligence Program, which was recently disclosed to account for $49.8 billion in fiscal year 2009, is managed well and provides to the American public the intelligence capability required to keep the nation safe and its policymakers well informed.

Especially given Mr. Gompert's role in the private sector, the committee will look to him to import and insist on strong management practices to reign in troubled acquisitions, improve information sharing, and help run our intelligence apparatus as a true community and not just a collection of agencies.

If confirmed, Mr. Gompert will be the third principal deputy DNI since Congress created the position in 2004. As I mentioned previously, the position has been unfilled for much of the time, so I am pleased that the President has nominated Mr. Gompert and I am also pleased he will be confirmed quickly.

Mr. Gompert was nominated by President Obama on August 6, 2009—the day before Congress broke for the August Recess. After going through the pre-hearing procedures, the Senate Intelligence Committee held a confirmation hearing on the nomination on October 13, 2009. As part of the confirmation process, Mr. Gompert was asked to complete a committee questionnaire, pre-hearing questions, and post-hearing questions for the record. The answers provided by Mr. Gompert have all been posted to our committee website.

From my meeting with Mr. Gompert and based on his answers to the questions put to him by members of the Intelligence Committee, I can say that Mr. Gompert has proven that he will be an excellent addition to help the Office of the Director of National Intelligence carry out all of its important responsibilities and to make continued reforms. His responses to our questions have been thoughtful and thorough.

Mr. Gompert has almost 40 years of experience as a national security professional and information technology company executive. He has also served as a national security analyst in senior White House and State Department positions.

Most recently, Mr. Gompert has worked in the Office of the Director of National Intelligence—ODNI—on a short-term assignment to evaluate how the ODNI's mission managers are working in practice. In that informal role, Mr. Gompert worked to identify what additional measures can be taken to facilitate mission management and other forms of cross-agency teaming of analysts and intelligence collectors.

Before his service at the ODNI, Mr. Gompert was a Senior Fellow at the RAND Corporation. Prior to this he was Distinguished Research Professor at the Center for Technology and National Security Policy at the National Defense University.

In 2003 he was a senior advisor for National Security and Defense to the Coalition Provisional Authority in Iraq.

He has also been on the faculty of the RAND Pardee Graduate School, the United States Naval Academy, and the National Defense University.

Mr. Gompert served as President of RAND Europe from 2000 to 2003, during which period he was on the RAND Europe Executive Board and the chairman of RAND Europe-UK. He was vice president of RAND and director of the National Defense Research Institute from 1993 to 2000.

From 1990 to 1993, Mr. Gompert served as special assistant to President George H. W. Bush and senior director for Europe and Eurasia on the National Security Council staff. He has held a number of positions at the State Department, including deputy to the Under Secretary for Political Affairs, 1982–83; deputy assistant secretary for European Affairs, 1981–82; deputy director of the Bureau of Political-Military Affairs, 1977–81; and special assistant to Secretary of State Henry Kissinger, 1973–75.

Mr. Gompert worked as an executive in the private sector from 1983–1990, when he held executive positions at Unisys and at AT&T.

At Unisys, 1989–90, he was president of the Systems Management Group and vice president for Strategic Planning and Corporate Development. At AT&T, 1983–1989, he was vice president, civil sales and programs, and director of international market planning.

Mr. Gompert holds a Bachelor of Science degree in engineering from the United States Naval Academy and a Master of Public Affairs degree from the Woodrow Wilson School, Princeton University.

In sum, Mr. Gompert will be an asset to the Intelligence Community because he has worked at the intersection of intelligence and policy for much of his career.

His background has provided good management experience and a unique perspective on how to address the challenges lying ahead for the Intelligence Community.

I look forward to the Senate approving Mr. Gompert's nomination and I yield the Floor.

LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will resume legislative session.

THE CALENDAR

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of the following postal naming bills en bloc: Calendar Nos. 198 through 207: H.R. 955, H.R. 1516, H.R. 1713, H.R. 2004, H.R. 2215, H.R. 2760, H.R. 2972, H.R. 3119, H.R. 3386, and H.R. 3547.

There being no objection, the Senate proceeded to the bills en bloc.

Mr. REID. Mr. President, I will make a brief comment. I had the good fortune of serving with Wes Watkins, a Member of the House of Representatives from Oklahoma. It is a very good thing that there is going to be a building named after him.

Finally, Rex Lee was my neighbor when I first came back to Congress. His son and my boy Josh were best friends. They still are. Rex Lee was one of America's all-time great legal minds. He argued numerous cases before the U.S. Supreme Court. He was stricken as a young man with an incurable type of cancer and died at a much too early age. He was first dean of the BYU Law School and then president of BYU. His No. 1 qualification was his legal mind, which was outstanding, and he had such a wonderful family. I think that is wonderful that there is going to be a building named after Rex Lee in Provo, UT. He deserves that.

Mr. HATCH. Mr. President, I rise today to pay tribute to Rex E. Lee, a man whose legacy we recognize today by renaming the post office in Provo, UT in his honor. Supreme Court Justice Sandra Day O'Conner captured my own feelings about Rex when she said:

> Knowing him [Rex] was one of the greatest privileges of my life. Remembering him will be one of the easiest.

Graduating first in his class from the University of Chicago Law School in 1963, Rex went on to serve as a law clerk for Byron White on the U.S. Supreme Court. Then, just 4 years out of law school, Rex argued his first case before the Supreme Court in 1967, and went on in 1972 to become the Founding Dean of the J. Reuben Clark Law School at Brigham Young University.

In addition to serving as an Assistant Attorney General in charge of the Civil Division at the Department of Justice in the middle of the 1970s, Rex served as the Solicitor General of the United States from 1981 to 1985. In fact, over the span of his life, Rex argued 59 cases before the Supreme Court of the United States and his record as the Solicitor General is impressive. Never one to rest, Rex was then named as the 10th president of Brigham Young University in 1989, where he served thousands of students, faculty, and administrators faithfully for over 6 years. As a man, Rex is someone I respected; as a dedicated husband, father, and friend, Rex is someone who is deeply missed.

Anyone who had the privilege of knowing Rex, as I did, well remembers his stellar service to his community, our State, and to the Nation as a whole. Long after his passing, his influence still lingers and is keenly felt everywhere from the classrooms at BYU to the corridors of our government's most revered institutions. Renaming the Provo Post Office in Rex's honor befits a public servant of his stature, and I am pleased to support this legislation in the Senate to honor Rex's legacy.

In short, Rex Lee was a great man and I am proud to see the Provo Post Office named after him. There are thousands of Utahns throughout the State who join me in celebrating this man's great life with this fitting tribute.

Mr. REID. I ask unanimous consent that the bills be read the third time and passed en bloc; that the motions to reconsider be laid upon the table en bloc; and that any statements related to these bills be printed in the RECORD.

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

JOHN ''BUD'' HAWK POST OFFICE

The bill (H.R. 955) to designate the facility of the United States Postal Service located at 10355 Northeast Valley Road in Rollingbay, Washington, as the ''John 'Bud' Hawk Post Office,'' was ordered to a third reading, read the third time, and passed.

SERGEANT MARCUS MATHES POST OFFICE

The bill (H.R. 1516) to designate the facility of the United States Postal Service located at 37926 Church Street in Dade City, Florida, as the ''Sergeant Marcus Mathes Post Office,'' was ordered to a third reading, read the third time, and passed.

CONGRESSMAN WESLEY ''WES'' WATKINS POST OFFICE

The bill (H.R. 1713) to name the South Central Agricultural Research Laboratory of the Department of Agriculture in Lane, Oklahoma, and the facility of the United States Postal Service located at 310 North Perry Street in Bennington, Oklahoma, in honor of former Congressman Wesley ''Wes'' Watkins was ordered to a third reading, read the third time, and passed.

AKRON VETERANS MEMORIAL POST OFFICE

The bill (H.R. 2004) to designate the facility of the United States Postal Service located at 4282 Beach Street in Akron, Michigan, as the ''Akron Veterans Memorial Post Office,'' was ordered to a third reading, read the third time, and passed.

JOHN J. SHIVNEN POST OFFICE BUILDING

The bill (H.R. 2215) to designate the facility of the United States Postal Service located at 140 Merriman Road in Garden City, Michigan, as the ''John J. Shivnen Post Office Building,'' was ordered to a third reading, read the third time, and passed.

JOHNNY GRANT HOLLYWOOD POST OFFICE BUILDING

The bill (H.R. 2760) to designate the facility of the United States Postal Service located at 1615 North Wilcox Avenue in Los Angeles, California, as the ''Johnny Grant Hollywood Post Office Building,'' was ordered to a third reading, read the third time, and passed.

CONRAD DEROUEN, JR. POST OFFICE

The bill (H.R. 2972) to designate the facility of the United States Postal Service located at 115 West Edward Street in Erath, Louisiana, as the ''Conrad DeRouen, Jr. Post Office,'' was ordered to a third reading, read the third time, and passed.

LIM POON LEE POST OFFICE

The bill (H.R. 3119) to designate the facility of the United States Postal Service located at 867 Stockton Street in San Francisco, California, as the ''Lim Poon Lee Post Office,'' was ordered to a third reading, read the third time, and passed.

IRAQ AND AFGHANISTAN VETERANS MEMORIAL POST OFFICE

The bill (H.R. 3386) to designate the facility of the United States Postal Service located at 1165 2nd Avenue in Des Moines, Iowa, as the ''Iraq and Afghanistan Veterans Memorial Post Office,'' was ordered to a third reading, read the third time, and passed.

REX E. LEE POST OFFICE BUILDING

The bill (H.R. 3547) to designate the facility of the United States Postal Service located at 936 South 250 East in Provo, Utah, as the ''Rex E. Lee Post Office Building,'' was ordered to a third reading, read the third time, and passed.

EXTENDING AUTHORITY FOR RELOCATION EXPENSES

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 196, S. 1825.

The PRESIDING OFFICER. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (S. 1825) to extend the authority for relocation expenses test programs for Federal employees, and for other purposes.

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

Mr. REID. Mr. President, I ask unanimous consent that the Lieberman amendment, which is at the desk, be agreed to, the bill, as amended, be read a third time, passed, the motions to reconsider be laid upon the table, with no intervening action or debate, and that any statements relating to the bill be printed in the RECORD.

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

The amendment (No. 2768) was agreed to, as follows:

(Purpose: To modify the effective date)

On page 3, line 5, strike ''October 31, 2009'' and insert ''December 18, 2009''.

The bill (S. 1825), as amended, was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 1825

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

SECTION 1. RELOCATION EXPENSES TEST PROGRAMS.

(a) IN GENERAL.—Section 5739 of title 5, United States Code, is amended—

(1) in subsection (a), by striking paragraph (3);

(2) in subsection (b)—

(A) by inserting ''or extended'' after ''approved''; and

(B) by inserting ''or extension'' after ''of the program'';

(3) by striking subsection (c) and inserting the following:

''(c)(1) An agency authorized to conduct a test program under subsection (a) shall annually submit a report on the results of the program to date to the Administrator.

''(2) Not later than 3 months after completion of a test program, the agency conducting the program shall submit a final report on the results of the program to the Administrator and the appropriate committees of Congress.'';

(4) in subsection (d), by striking ''10'' and inserting ''12''; and

(5) by striking subsection (e) and inserting the following:

''(e)(1) The Administrator may not approve any test program for an initial period of more than 4 years.

''(2)(A) Upon the request of the agency administering a test program, the Administrator may extend the program.

''(B) An extension under subparagraph (A) may not exceed 4 years.

''(C) The Administrator may exercise more than 1 extension under subparagraph (A) with respect to any test program.''.

(b) EFFECTIVE DATE.—This section shall take effect on December 18, 2009.

EMPOWERING AND STRENGTHENING THE UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT

Mr. REID. Mr. President, I ask unanimous consent that the Foreign Relations Committee be discharged from further consideration of S. Res. 312.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the resolution by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 312) expressing the sense of the Senate on empowering and strengthening the United States Agency for International Development (USAID).

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

Mr. REID. Mr. President, I ask unanimous consent that a Dodd amendment to the resolution be agreed to; that the resolution, as amended, be agreed to; that a Dodd amendment to the preamble be agreed to; that the preamble, as amended, be agreed to; that 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 amendment (No. 2769) was agreed to, as follows:

Strike all after the resolving clause and insert the following:

That it is the sense of the Senate that—

(1) a highly capable and knowledgeable individual should be nominated with all expediency and exigency to serve as the Administrator of the United States Agency for International Development;

(2) the Administrator should—

(A) serve as the chief advocate for United States development capacity and strategy in top-level national security deliberations;

(B) serve as a powerful advocate and effective leader of an empowered USAID; and

(C) marshal the resources, knowledge, capacity, and experiences of USAID—

(i) to effectively represent USAID in interagency debate and in advancing and executing foreign policy; and

(ii) to improve ultimately the effectiveness and capability of United States foreign assistance;

(3) USAID must be empowered to be the primary development agency of the United States, and the Administrator must serve as the principal advisor to the President and national security organs of the United States Government on the capacity and strategy of United States development assistance;

(4) the Administrator should substantially and transparently increase the total number of full-time Foreign Service Officers employed by USAID, in part by reducing the reliance on outside contractor personnel, in order to enhance the ability of the agency to—

(A) carry out development activities around the world by providing USAID with additional human resources and expertise needed to meet important development and humanitarian needs around the world;

(B) strengthen the institutional capacity of USAID as the lead development agency of the United States; and

(C) more effectively help developing nations to become more stable, healthy, democratic, prosperous, and self-sufficient; and

(5) the Administrator should submit a strategy to Congress that includes—

(A) a plan to create a professional training program that will provide new and current Agency employees with technical, management, leadership, and language skills;

(B) a 5-year staffing plan;

(C) a description of further resources and statutory changes necessary to implement the proposed training and staffing plans; and

(D) a plan to address fraud and corruption in United States development assistance and procedures to safeguard United States foreign assistance funds from going to persons or organizations that advocate or engage in acts of international terrorism.

The resolution (S. Res 312), as amended, was agreed to.

The amendment (No. 2770) was agreed to, as follows:

Strike the eighth whereas clause of the preamble.

In the tenth whereas clause of the preamble, strike ''all aid programs are administered by Federal agencies other than USAID, and development funding'' and insert ''all foreign assistance programs are administered by Federal agencies other than USAID, and funding for such programs''.

The preamble, as amended, was agreed to.

The resolution, as amended, with its preamble, as amended, reads as follows:

(The resolution will be printed in a future edition of the RECORD.)

MANAGEMENT OF BLUEFIN TUNA

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of S. Res. 346.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 346) expressing the sense of the Senate that, at the 21st Regular Meeting of the International Commission on the Conservation of Atlantic Tunas, the United States should seek to ensure management of the eastern Atlantic and Mediterranean bluefin tuna fishery adheres to the scientific advice provided by the Standing Committee on Research and Statistics and has a high probability of achieving the established rebuilding target, pursue strengthened protections for spawning bluefin populations in the Mediterranean Sea to facilitate the recovery of the Atlantic bluefin tuna, pursue imposition of more stringent measures to ensure compliance by all Members with the International Commission for the Conservation of Atlantic Tunas' conservation and management recommendations for Atlantic bluefin tuna and other species, and ensure that the United States' quotas of tuna and swordfish are not reallocated to other nations, and for other purposes.

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

Mr. REID. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, and the motion to reconsider be laid upon the table.

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

The resolution (S. Res. 346) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 346

Whereas Atlantic bluefin tuna and Atlantic swordfish are valuable historical commercial and recreational fisheries of the United States and many other countries;

Whereas the International Convention for the Conservation of Atlantic Tunas entered into force on March 21, 1969;

Whereas the Convention established the International Commission for the Conservation of Atlantic Tunas to coordinate international research and develop, implement, and enforce compliance of the conservation and management recommendations on the Atlantic bluefin tuna, Atlantic swordfish and other Atlantic highly migratory species in the Atlantic Ocean and the adjacent seas, including the Mediterranean Sea;

Whereas the United States has established for its fisheries a strict regime of conservation, management and compliance for Atlantic highly migratory species and protected living marine resources caught incidentally to such fisheries that is unmatched by other fishing nations;

Whereas the reallocation of United States quotas of Atlantic bluefin tuna and Atlantic swordfish to other nations will cause severe economic impacts, including a loss of United States jobs, and undermine the conservation of populations of protected living marine resources such as Atlantic billfish species, endangered sea turtles, sea birds and marine mammals caught incidentally in the fisheries of other nations;

Whereas in 1974, the Commission adopted its first conservation and management recommendation to ensure the sustainability of Atlantic bluefin tuna throughout the Atlantic Ocean and Mediterranean Sea, while allowing for the maximum sustainable catch for food and other purposes;

Whereas in 1981, for management purposes, the Commission adopted a working hypothesis of 2 Atlantic bluefin stocks, with 1 occurring west of 45 degrees west longitude (hereinafter referred to as the ''western Atlantic stock'') and the other occurring east of 45 degrees west longitude (hereinafter referred to as the ''eastern Atlantic and Mediterranean stock'');

Whereas, despite scientific advice intended to prevent overfishing, rebuild and maintain bluefin tuna populations at levels that will permit the maximum sustainable yield, and ensure the future sustainability of the stocks, the total allowable catch quotas have consistently been set at levels significantly higher than the recommended levels for the eastern Atlantic and Mediterranean stock;

Whereas despite the establishment by the Commission of minimum sizes for Atlantic bluefin tuna with which the United States has fully complied, the Standing Committee on Research and Statistics has repeatedly expressed grave concerns that the flagrant lack of compliance with such size limits by Members fishing in the eastern Atlantic and Mediterranean is seriously undermining the effectiveness of the Commission's bluefin tuna recovery plans;

Whereas despite the ongoing establishment by the Commission of fishing quotas for the eastern Atlantic and Mediterranean bluefin tuna fishery that surpass scientific recommendations, compliance with such quotas by parties to the Convention that harvest that stock has been extremely poor, with harvests exceeding the scientific advice by

more than 50 percent in recent years as reported by the Standing Committee on Research and Statistics and other independent sources monitoring the fishery;

Whereas insufficient data reporting in combination with unreliable national catch statistics resulting from inadequate or nonexistent catch monitoring and observer programs has frequently undermined efforts by the Commission to determine the levels of overharvests by specific countries;

Whereas the failure of many Commission members fishing for eastern Atlantic and Mediterranean bluefin tuna east of 45 degrees west longitude to comply with other Commission recommendations to conserve and control the overfished eastern Atlantic and Mediterranean bluefin tuna stock has been an ongoing problem;

Whereas it is widely recognized that some fishing vessels, in particular those participating in illegal, unregulated, and unreported fishing, have little incentive to cease these infractions due to a lack of adequate sanctions;

Whereas the Commission's Standing Committee on Research and Statistics noted in its 2008 stock assessment that the fishing mortality rate for the eastern Atlantic and Mediterranean stock was more than 3 times the level that would permit the stock to stabilize at the maximum sustainable catch level and that unless fishing mortality rates are substantially reduced in the near future, further reduction in spawning stock biomass is likely to occur leading to a risk of fisheries and stock collapse;

Whereas the Commission's Standing Committee on Research and Statistics has recommended that the annual harvest levels for eastern Atlantic and Mediterranean bluefin tuna be reduced to levels between 15,000 and 8,500 metric tons to halt the decline of the resource and initiate rebuilding, and indicated that a total allowable catch of 8,500 has a higher probability of rebuilding the stock within the Commission's established time frame;

Whereas in 2006, the Commission adopted the ''Recommendation by ICCAT to Establish a Multi-Annual Recovery Plan for Bluefin Tuna in the eastern Atlantic and Mediterranean'' (Recommendation 06-05), which was amended in 2008, containing a wide range of management, monitoring, and control measures designed to facilitate the recovery of the eastern Atlantic and Mediterranean bluefin tuna stock by the year 2023;

Whereas the Recovery Plan is inadequate and allows overfishing and stock decline to continue, and continuing information and repeated warnings by the Standing Committee on Research and Statistics indicate that current implementation of the plan is unlikely to achieve its goals;

Whereas the Principality of Monaco has submitted a petition to list Atlantic bluefin tuna under Appendix I of the Convention on International Trade in Endangered Species of Fauna and Flora, and while the United States did not cosponsor this petition, the Administration has expressed its support for this petition unless the Commission ''adopts significantly strengthened management and compliance measures'' for countries fishing on the eastern Atlantic and Mediterranean bluefin tuna stock;

Whereas since 1981, the Commission has adopted additional and more restrictive conservation and management recommendations for the western Atlantic bluefin tuna stock, including a closure to directed fishing in the spawning grounds of the Gulf of Mexico, and these recommendations have been fully implemented by Nations fishing west of 45 degrees west longitude;

Whereas despite adopting, fully implementing, and complying with a science-based rebuilding program for the western Atlantic bluefin tuna stock by countries fishing west of 45 degrees west longitude, catches and catch rates remain very low, especially for the United States;

Whereas scientific evidence now provides indisputable evidence from electronic tagging studies and other scientific research that mixing of the eastern and western Atlantic bluefin tuna stocks occurs throughout the Atlantic ocean on feeding and fishing grounds, and the poor management and noncompliance with the Commission's Recovery Plan for the eastern Atlantic stock is having an adverse impact on the western Atlantic stock and United States fisheries;

Whereas additional research on stock mixing will improve the understanding of the relationship between eastern and western bluefin tuna stocks, which will assist in the conservation, recovery, and management of the species throughout its range;

Whereas a 2008 Independent Review of the Commission concluded that the Commission's management of bluefin tuna in the eastern Atlantic and Mediterranean has been ''widely regarded as an international disgrace'': Now, therefore, be it

Resolved, That it is the sense of the Senate that the United States delegation to the 21st Regular Meeting of the International Commission for the Conservation of Atlantic Tunas, should—

(1) seek the adoption of all revisions to the Recovery Plan for eastern Atlantic and Mediterranean bluefin tuna that will conform the Plan to the scientific advice provided by the Standing Committee on Research and Statistics and has a high probability of achieving the established rebuilding target within the established time frame, including a strict penalty regime and other appropriate mechanisms to verify and ensure compliance;

(2) seek to expand time and area closures of spawning areas in the Mediterranean in full conformity with the scientific advice provided by the Standing Committee on Research and Statistics;

(3) pursue the continued aggressive review and assessment by the Commission's Committee on Compliance of compliance with conservation and management measures, including data collection and reporting requirements, adopted by the Commission and in effect for the 2009 eastern Atlantic and Mediterranean bluefin tuna fishery, occurring east of 45 degrees west longitude, and other fisheries that are subject to the jurisdiction of the Commission;

(4) aggressively seek to address noncompliance with such measures by all parties to the Convention through all appropriate actions;

(5) pursue the commitment by the Commission and its parties to fund additional research on both the western Atlantic and eastern Atlantic and Mediterranean bluefin tuna stocks including but not limited to the extent to which the stocks mix; and

(6) strenuously defend the interests of United States with regard to Atlantic bluefin tuna, Atlantic swordfish, and other species managed by the Commission, including the protection of U.S. quota shares.

ORDERS FOR TUESDAY, NOVEMBER 10, 2009

Mr. REID. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 10 a.m., Tuesday, November 10; that following the prayer and pledge, the Journal of proceedings be approved to date, the morning hour be deemed expired, the time for the two leaders be reserved for their use later in the day, and there be a moment of silence to honor the victims of the attack at Fort Hood, TX, that occurred on November 5; that following the moment of silence, the Senate proceed to a period of morning business for 1 hour, with Senators permitted to speak for up to 10 minutes each, with the time equally divided and controlled between the two leaders or their designees, with the majority controlling the first half and the Republicans controlling the second half; that following morning business, the Senate resume consideration of H.R. 3082, and I would hope people would be ready to offer amendments tomorrow; and finally, I ask that the Senate recess from 12:30 until 2:15 p.m. to allow for the weekly caucus luncheons to meet.

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

ADJOURNMENT UNTIL 10 A.M. TOMORROW

Mr. REID. Mr. President, if there is no further business to come before Senate, I ask unanimous consent that the Senate stand adjourned under the previous order.

There being no objection, the Senate, at 7:52 p.m., adjourned until Tuesday, November 10, 2009, at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate:

PENSION BENEFIT GUARANTY CORPORATION

JOSHUA GOTBAUM, OF THE DISTRICT OF COLUMBIA, TO BE DIRECTOR OF THE PENSION BENEFIT GUARANTY CORPORATION, VICE CHARLES E. F. MILLARD.

DEPARTMENT OF STATE

EILEEN CHAMBERLAIN DONAHOE, OF CALIFORNIA, FOR THE RANK OF AMBASSADOR DURING HER TENURE OF SERVICE AS THE UNITED STATES REPRESENTATIVE TO THE UN HUMAN RIGHTS COUNCIL.

LAURA E. KENNEDY, OF NEW YORK, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, FOR THE RANK OF AMBASSADOR DURING HER TENURE OF SERVICE AS U.S. REPRESENTATIVE TO THE CONFERENCE ON DISARMAMENT.

PEACE CORPS

CAROLYN HESSLER RADELET, OF THE DISTRICT OF COLUMBIA, TO BE DEPUTY DIRECTOR OF THE PEACE CORPS, VICE JOSEPHINE K. OLSEN, RESIGNED.

DEPARTMENT OF VETERANS AFFAIRS

RAUL PEREA-HENZE, OF NEW YORK, TO BE AN ASSISTANT SECRETARY OF VETERANS AFFAIRS (POLICY AND PLANNING), VICE PATRICK W. DUNNE.

FOREIGN SERVICE

THE FOLLOWING-NAMED PERSONS OF THE AGENCIES INDICATED FOR APPOINTMENT AS FOREIGN SERVICE OFFICERS OF THE CLASSES STATED.

FOR APPOINTMENT AS FOREIGN SERVICE OFFICER OF CLASS FOUR, CONSULAR OFFICER AND SECRETARY IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA,

DEPARTMENT OF STATE

JEFFREY D. ADLER, OF CALIFORNIA
JAMAL ALI AL-MUSSAWI, OF TEXAS
GARY BRENT APPLEGARTH, OF THE DISTRICT OF COLUMBIA
KATHERINE ARCIERI, OF NEW JERSEY
MARK ERNEST AZUA, OF ILLINOIS
JOHN WEIL BARBIAN, OF ILLINOIS
JEREMY KENT BARNUM, OF THE DISTRICT OF COLUMBIA
DAVIDA A. BAXTER, OF VIRGINIA
SHANNON D. BEHAJ, OF DELAWARE
LYNETTE MARIE BEHNKE, OF CALIFORNIA
PAMELA J. BENTLEY, OF CALIFORNIA
ERIK WAYNE BLACK, OF CALIFORNIA
STEPHEN G. BLACK, OF NEW YORK

SAAD SYED BOKHARI, OF COLORADO
MATTHEW HAWES BOLAND, OF VIRGINIA
MATT BONAIUTO, OF THE DISTRICT OF COLUMBIA
MANOELA GUIDORIZZI BORGES, OF THE DISTRICT OF COLUMBIA
JAMES MICHAEL BREDECK, OF FLORIDA
CAREN A. BROWN, OF ARIZONA
JENNIFER JONES BUCHA, OF VIRGINIA
JOEL TODD BULLOCK, OF ALABAMA
DOLORES CANAVAN, OF VIRGINIA
MELISSA GREER CARLSON, OF GEORGIA
LEWIS A. CARROLL, OF NORTH CAROLINA
DAVID RAY CAUDILL, JR., OF OHIO
JEREMY H. CHEN, OF TENNESSEE
ERIC M. COLLINGS, OF VIRGINIA
JENNY CORDELL, OF TEXAS
MYCA CRAVEN, OF WASHINGTON
JONATHAN MICHAEL CULLEN, OF VIRGINIA
ADAM NELSON DAVIS, OF MINNESOTA
CARLISLE RAGLAND DAVIS III, OF NEW YORK
CYNTHIA J. DAY, OF MONTANA
ANTHONY A. DEATON, OF CONNECTICUT
ANITA KNOPP DOLL, OF NEW YORK
ERIC EILSKOV, OF TEXAS
EDWARD F. FINDLAY, OF VIRGINIA
PATRICK JAY FISCHER, OF PENNSYLVANIA
GREGORY A. FLOYD, OF CALIFORNIA
MARCIA HELEN SAMET FRIEDMAN, OF TEXAS
JANE K. GAMBLE, OF WASHINGTON
NEWTON J. GASKILL, OF TEXAS
MATILDA FRANCES GAWF, OF TEXAS
MEGAN ALANNA CORNEIL GOODFELLOW, OF NEW YORK
CHARLES R. GOODMAN, OF FLORIDA
JAMES MICHAEL GREENE, OF NEW MEXICO
MICHAEL J. GREER, OF TEXAS
KRISTI L. GRUIZENGA, OF MICHIGAN
CARRIE A. GRYSKIEWICZ, OF MINNESOTA
EVAN THOMAS HAGLUND, OF TENNESSEE
ELIZABETH E. HANNY, OF WASHINGTON
CHRISTOPHER STEPHEN HATTAYER, OF CONNECTICUT
ALEXANDER HAWKES, OF CALIFORNIA
KRISTIN J. HAWORTH, OF VIRGINIA
CHRISTINA JEAN HERNANDEZ, OF TEXAS
JOHN WILLIAM HICKS III, OF MICHIGAN
THOMAS CHRISTOPHER HILLEARY, OF MISSOURI
ELIZABETH M. HOFFMAN, OF OHIO
STEPHANIE ELIZABETH HOLMES, OF CALIFORNIA
JOHN THOMAS ICE, OF KENTUCKY
DAVID JOSEPH JENDRISAK II, OF PENNSYLVANIA
GAIL R. JOHNSON, OF VIRGINIA
DOUGLAS E. JOHNSTON, OF NEW HAMPSHIRE
NATHAN A. JONES, OF UTAH
BLAINE KALTMAN, OF FLORIDA
JOHN C. KASTNING, OF NEBRASKA
DANIEL SETH KATZ, OF WASHINGTON
SOFIA MARIAM KHILJI, OF VIRGINIA
KAREN E. KIRCHGASSER, OF THE DISTRICT OF COLUMBIA
JEFFREY M. KLEM, OF NEW YORK
DAVID J. KLOESEL, OF TEXAS
SHAWN A. KOBB, OF VIRGINIA
ERIKA KUENNE, OF COLORADO
R. NICHOLAS LARSEN, OF UTAH
KING SAN LIEN, OF OHIO
AMANDA JEAN LILLIS, OF FLORIDA
MARY JO ANN LONG, OF VIRGINIA
AMY LYNN LORENZEN, OF SOUTH DAKOTA
JENNIFER L. LUDDERS, OF IDAHO
CARMELIA C. MACFOY, OF ARKANSAS
BRETT ALAN MAKENS, OF MICHIGAN
AMIR PHILLIP MASLIYAH, OF CALIFORNIA
SUSAN N. MCFEE, OF NEW JERSEY
LINDA MCMULLEN, OF WISCONSIN
CATHERINE CONNELL MCSHERRY, OF FLORIDA
JEFFREY RYAN MILES, OF PENNSYLVANIA
DEWEY E. MOORE, JR., OF VIRGINIA
VINCENT R. MOORE, OF VIRGINIA
ADAM DAVID MURRAY, OF MICHIGAN
MENAKA M. NAYYAR, OF NEW YORK
JAIMEE MACANAS NEEL, OF NEVADA
JENNIFER J. NEHEZ, OF FLORIDA
MARIANA LENKOVA NEISULER, OF VIRGINIA
RICHARD CHARLES NICHOLSON, OF FLORIDA
MBALLE M. NKEMBE, OF NEW YORK
AARON A. NUUTINEN, OF TEXAS
TIMOTHY PATRICK O'CONNOR, OF PENNSYLVANIA
MAUREEN ANNE O'NEILL, OF CALIFORNIA
JAMI LYNN PAPA, OF PENNSYLVANIA
JOAN D. PATTERSON, OF UTAH
KATRISA BOHNE PEFFLEY, OF MINNESOTA
JOHN MATTHEW PETTE, OF GEORGIA
KIMBERLY G. PHELAN, OF CALIFORNIA
JOSIAH THOMAS PIERCE, OF WYOMING
CRAIG T. PIKE, OF VIRGINIA
CHRISTOPHER G. PIXLEY, OF NEW HAMPSHIRE
AMANDA E. PORTER, OF WASHINGTON
T. KATHARINE REBHOLZ, OF NEW YORK
CYNTHIA STONE RICHARDS, OF VIRGINIA
IVAN RIOS, OF FLORIDA
KRISTIN M. ROBERTS, OF WASHINGTON
RICHARD MILLER ROBERTS, OF TEXAS
SILVANA DEL VALLE RODRIGUEZ, OF ILLINOIS
EMILY VICTORIA RONEK, OF NEW YORK
LINDA L. ROSALIK, OF MICHIGAN
BRIAN J. SALVERSON, OF CALIFORNIA
MOLLY M. SANCHEZ CROWE, OF NEW YORK
ERIK J. SCHNOTALA, OF ILLINOIS
JENNIFER M. SCHUELER, OF ILLINOIS
MIRIAM LYNNE SCHWEDT, OF THE DISTRICT OF COLUMBIA
SCOTT M. SIMPSON, OF TEXAS
KATHERINE PARKS SKARSTEN, OF COLORADO
SCOTT EDWARD SOMMERS, OF ILLINOIS
TRISTAN M. SPICELAND, OF WASHINGTON
VIRGINIA LEE STERN, OF ILLINOIS
REBECCA JANE STEWARD, OF ILLINOIS
MATTHEW ROLAND STOKES, OF CALIFORNIA
DAVID J. STRASHNOY, OF CALIFORNIA
BARBARA RENEE SZCZEPANIAK, OF FLORIDA
KRISTEN E. THOMPSON, OF OREGON
JENNIFER MARIE TIERNEY, OF PENNSYLVANIA
KEVIN JOSEPH TIERNEY, OF VIRGINIA
JONATHAN C. TURLEY, OF GEORGIA
CHRISTOPHER DANIEL VOGT, OF COLORADO
RIMA JANINA VYDMANTAS, OF GEORGIA
MARY WALZ, OF WASHINGTON
KAREN WIEBELHAUS, OF VIRGINIA
JENNIFER L. WILLIAMS, OF TEXAS
LUKE VARIAN ZAHNER, OF CONNECTICUT
MIREILLE L. ZIESENISS, OF THE DISTRICT OF COLUMBIA

THE FOLLOWING-NAMED MEMBERS OF THE FOREIGN SERVICE TO BE CONSULAR OFFICERS AND SECRETARIES IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

DEPARTMENT OF STATE

NAFEESAH ALLEN, OF NEW JERSEY
BRITTANIE KIAH CELESTE ANDERSON, OF MISSOURI
REBECCA ARCHER-KNEPPER, OF VIRGINIA
JOHN S. ARMIGER, OF THE DISTRICT OF COLUMBIA
BRIAN ASMUS, OF VIRGINIA
WILLIAM P. ASTILLERO, OF NEW JERSEY
NATHANIEL A. BELL, OF TEXAS
JESSICA ERIN BERLOW, OF THE DISTRICT OF COLUMBIA
VICTOR D. BERNARD, OF VIRGINIA
LISA M. BHOUMIK, OF VIRGINIA
THOMAS M. BILLS, OF OHIO
KIM I. BOGART, OF VIRGINIA
ANTHONY JUNG BONVILLE, OF TEXAS
VIRGILE GEORGES BORDERIES, OF CALIFORNIA
MICHAEL C. BRAJA, OF VIRGINIA
VIRGINIA CLAIRE BREEDLOVE, OF LOUISIANA
PETER ANDREW BURBA, OF CALIFORNIA
WILLIAM A. CAMPBELL, OF WISCONSIN
KATHERINE W. CAMPO, OF MASSACHUSETTS
CARINA R. CANAAN, OF MASSACHUSETTS
NATALIA CAPEL, OF FLORIDA
BETH MARIE CHESTERMAN, OF TEXAS
JONATHAN B. CHESTNUT, OF GEORGIA
KEVIN R. CHIASSON, OF VIRGINIA
GILBERT THOMAS CHIHOCKY, OF VIRGINIA
SARAH JANE CIACCIA, OF THE DISTRICT OF COLUMBIA
ERIC T. CONNELLY, OF VIRGINIA
JANE MARIE COOPER, OF THE DISTRICT OF COLUMBIA
LISA M. COWLEY, OF MARYLAND
CHRISTOPHER A. CRAWFORD, OF VIRGINIA
JUSTIN E. DAVIS, OF GEORGIA
NEIL MICHAEL DIBIASE, OF FLORIDA
GARRETT B. DUARTE, OF VIRGINIA
LAUREN DUNN, OF CALIFORNIA
KIMBERLY K. EKHOLM, OF VIRGINIA
LELAND B. ERICKSON, OF VIRGINIA
STEPHEN JOSEPH ESTE, OF TEXAS
JESSE KYLE FINKEL, OF THE DISTRICT OF COLUMBIA
KARLY RAE FOLAND, OF VIRGINIA
PHILIP FOLKEMER, OF MARYLAND
DAVID E. FOUST, OF WEST VIRGINIA
MATTHEW A. FULLERTON, OF VIRGINIA
AMBER M. GARCIA, OF TENNESSEE
GERALDINE GASSAM, OF VIRGINIA
ERIC MICHAEL GODFREY, OF VIRGINIA
CYNTHIA E. GREEN, OF THE DISTRICT OF COLUMBIA
HOLLYN J. GREEN, OF MASSACHUSETTS
STEPHEN M. GRIM, OF MARYLAND
CAREY L. HALE, OF THE DISTRICT OF COLUMBIA
KRISTY L. HALLER, OF MARYLAND
CHERYL HARRIS, OF PENNSYLVANIA
ERIN HARRIS, OF VIRGINIA
HAKIM J. HASAN, OF OREGON
JILL A. HUMPHREYS, OF VIRGINIA
CYNTHIA L. JEFFERIES, OF TEXAS
JENNIFER JENSEN, OF CALIFORNIA
MCLAYNE M. JENSEN, OF VIRGINIA
GYE JOHNSON, OF THE DISTRICT OF COLUMBIA
MATTHEW B. JONES, OF VIRGINIA
HELEN ADAMS JUBAR, OF MARYLAND
RYAN D. KARNES, OF OREGON
ROWAN B. KELLY, OF CALIFORNIA
WALTER ANTHONY KERR, OF CONNECTICUT
JOHN P. KILL, OF GEORGIA
CRAIG P. KIM, OF WASHINGTON
NATALIE LABER, OF VIRGINIA
JINGPING LAI, OF CALIFORNIA
NATHANIEL A. LEVITH, OF MARYLAND
LINDSEY B. LEWIS, OF VIRGINIA
SCOTT CARL LUEDERS, OF FLORIDA
ERIN RUTH MAI, OF VIRGINIA
NAVEED AHMED MALIK, OF ILLINOIS
NICHOLAS B. MANSKE, OF WISCONSIN
TARA LYNN MARIA, OF CALIFORNIA
GREGORY G. MCELWAIN, OF NEW MEXICO
AYSA M. MILLER, OF WASHINGTON
KARL J. MILLER, OF MARYLAND
JEREMY MONKS, OF VIRGINIA
NAVARRO MOORE, OF GEORGIA
PATRICIA RENEE MORALES, OF TEXAS
STEPHEN GEORGE MRAZ, OF FLORIDA
W. MARC MURRI, OF UTAH
KATHERINE A. MUSGROVE, OF KANSAS
BOBBIE S. NEAL, OF VIRGINIA
MICHELLE MARIE NESH, OF VIRGINIA
KIM-THIÊN T. NGUYÊN, OF THE DISTRICT OF COLUMBIA
JOHN D. NORDLANDER, OF COLORADO
ELIZABETH NORMAN, OF WASHINGTON
VAYRAM A. NYADROH, OF ILLINOIS
AUTUMN K. OAKLEY, OF WASHINGTON
MICHELLE R. OSADCZUK, OF FLORIDA
JULIE ELIZABETH PARKS, OF VIRGINIA
XIXALA SANDRA PEREZ, OF VIRGINIA
JOSHUA RYAN PHELPS, OF THE DISTRICT OF COLUMBIA
JEAN PHILLIPSON, OF VIRGINIA
CAITLIN S. PIPER, OF NEW HAMPSHIRE
NICOLE LOKOMAIKA'I KIKUE PROBST FOX, OF HAWAII
MELISSA A. RHODES, OF ARKANSAS
DOUGLAS B. ROSE, OF MINNESOTA
TERESA ROTUNNO, OF NEW YORK
DEVIN WILLIAM RUSSELL, OF VIRGINIA
LADONNA S. SALES, OF TENNESSEE
CHRISTOPHER E. SANWICK, OF NEBRASKA
NADIA DINA M. SBEIH, OF CALIFORNIA
KATHRYN E. SCHLIEPER, OF THE DISTRICT OF COLUMBIA
ANISH A. SHAH, OF VIRGINIA
JAMES P. SHAK, OF ARIZONA
AARON H. SHEK, OF CALIFORNIA
LEVI SHEPHERD, OF THE DISTRICT OF COLUMBIA
JAIMY M. SMITH, OF VIRGINIA
JEREMY DAVID SPECTOR, OF NEW YORK
SHANNA DIETZ SURENDRA, OF MINNESOTA
ETHAN KENT TABOR, OF MARYLAND
JASON M. TEAGUE, OF THE DISTRICT OF COLUMBIA
PAUL STANLEY TENTLER, OF VIRGINIA
TIMOTHY A. TERRY, OF UTAH
JAY B. THOMPSON, OF THE DISTRICT OF COLUMBIA
JULIE THOMPSON, OF FLORIDA
PATRICK ALLARD TILLOU, OF VIRGINIA
MIRNA R. TORRES, OF NEW MEXICO
MATTHEW ALAN TOTÍLO, OF NEW YORK
MARY ELLEN TSEKOS-VELEZ, OF VIRGINIA
JACQUELINE L. TURNER, OF VIRGINIA
JOSEPH B. WATERMAN, OF FLORIDA
BROOKE WEHRENBERG, OF ILLINOIS
JOSEPH WELSH, OF CALIFORNIA
CHAD J. WESEN, OF WASHINGTON
MORGAN WHITMIRE, OF VIRGINIA
THERESA CAROL WILLIAMS, OF INDIANA
KAREN A. WIMBERLEY, OF GEORGIA
JOHNATHAN PAUL WINSTON, OF TEXAS
SCOTT B. WINTON, OF MISSOURI
LEV A. WISMER, OF VIRGINIA
THOMAS N. WOTKA, OF NEBRASKA
NIAMBI A. YOUNG, OF GEORGIA
WILBUR G. ZEHR, OF NEW YORK

THE FOLLOWING-NAMED CAREER MEMBER OF THE SENIOR FOREIGN SERVICE OF THE DEPARTMENT OF STATE FOR PROMOTION INTO THE SENIOR FOREIGN SERVICE TO THE CLASS INDICATED:

CAREER MEMBER OF THE SENIOR FOREIGN SERVICE OF THE UNITED STATES OF AMERICA, CLASS OF COUNSELOR, EFFECTIVE OCTOBER 12, 2008:

CONRAD WILLIAM TURNER, OF VIRGINIA

CONFIRMATIONS

Executive nominations confirmed by the Senate, Monday, November 9, 2009:

OFFICE OF THE DIRECTOR OF NATIONAL INTELLIGENCE

DAVID C. GOMPERT, OF VIRGINIA, TO BE PRINCIPAL DEPUTY DIRECTOR OF NATIONAL INTELLIGENCE.

THE ABOVE NOMINATION WAS APPROVED SUBJECT TO THE NOMINEE'S COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

THE JUDICIARY

ANDRE M. DAVIS, OF MARYLAND, TO BE UNITED STATES CIRCUIT JUDGE FOR THE FOURTH CIRCUIT.

CHARLENE EDWARDS HONEYWELL, OF FLORIDA, TO BE UNITED STATES DISTRICT JUDGE FOR THE MIDDLE DISTRICT OF FLORIDA.