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## Senate

The Senate met at 9:30 a.m. and was called to order by the Honorable MARK L. PRYOR, a Senator from the State of Arkansas.

### PRAYER

The PRESIDING OFFICER. Today's opening prayer will be offered by the Reverend Mac Richard, Senior Pastor of Lake Hills Church in Austin, TX.

The guest Chaplain offered the following prayer:

Let us pray.

Our Lord and our God, we thank You for Your favor and Your goodness to our Nation. Lord, in this room where decisions are made on behalf of millions of people, we pause to acknowledge Your power and to thank You for the gift of good government.

Thank You, Lord, for each woman and man who has chosen to serve and lead in this place. I ask that You would bless them, bless and protect their families who also sacrifice so that they might serve. Father, we come to You and ask that You would grant wisdom in this place. Give our leaders eyes to see what might be and the courage to truly lead our Nation.

Lord, You have blessed us with so much prosperity, so much opportunity. May we be faithful with the responsibility these blessings carry. Thank You for the promise of this new day, for the freedom to approach and worship You, and for the ultimate liberty we enjoy in relationship with You.

Father, I ask this prayer in the powerful Name of Jesus. Amen.

### PLEDGE OF ALLEGIANCE

The Honorable MARK L. PRYOR 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 assistant legislative clerk read the following letter:

U.S. SENATE,  
PRESIDENT PRO TEMPORE,  
Washington, DC, September 24, 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 L. PRYOR, a Senator from the State of Arkansas, to perform the duties of the Chair.

ROBERT C. BYRD,  
*President pro tempore.*

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

### RECOGNITION OF THE MAJORITY LEADER

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

### SCHEDULE

Mr. REID. Mr. President, following leader remarks, there will be a period of morning business, for up to 1 hour, with Senators permitted to speak for up to 10 minutes each. We will have the morning hour extended until 10:30 so the Democrats and Republicans can divide up that time because we have a cloture vote set for 10:30. The Republicans will control the first half and the Democrats will control the second half.

Following morning business, the Senate will resume consideration of the Interior appropriations bill. Mr. President, I have spoken to the necessary parties this morning, and I think we are going to be able to work out an agreement so we will not have to have the cloture vote. I hope that is the case. If, in fact, that is the case, we

will vitiate the cloture vote and what we will do—because of the heavy workload of the Finance Committee, and I have spoken to the necessary folks in this regard—we will schedule a time this afternoon to have a block of votes so they can come over at once and not have to keep going back and forth. We hope to work that out.

We made progress on this legislation yesterday, and if we can get these block of votes out of the way, we will move on to our next appropriations bill, which will be the Defense appropriations bill. This comes at a very important time in the history of our country, with troops coming out of Iraq and the situation we have developing in Afghanistan. Mr. President, you can announce morning business now.

### RESERVATION OF LEADER TIME

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

### MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will proceed to a period of morning business for up to 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 Republicans controlling the first half and the majority controlling the second half.

The majority leader.

### FILING DEADLINE

Mr. REID. Mr. President, I forgot to announce that the filing deadline for second-degree amendments is at 10:30 this morning.

The ACTING PRESIDENT pro tempore. The Senator from Tennessee.

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



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## HEALTH CARE

Mr. ALEXANDER. Mr. President, I see the majority leader is still on the floor, and I wish to thank him and the Republican leader for organizing last night's reception honoring Henry Clay, a great Senator, whose portrait will be hanging in the stairway outside of here. There was a time in history when Henry Clay, Daniel Webster, and John Calhoun were better known than the Presidents of the United States. That was in the 1850s, before the Civil War. It was good to take a moment all together, Democrats and Republicans, and think about that history and to honor the man who was known as the great compromiser, who during a time when our Nation was completely split over the Civil War, on three different occasions, found a way to try to bring it together. Of course, he died before the great war.

Mr. President, I ask unanimous consent that during the Republican morning business time I be permitted to enter into a colloquy with my colleagues Senator MCCAIN, Senator COBURN, Senator BROWNBACK, Senator THUNE, and Senator MURKOWSKI, who will be here shortly.

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

Mr. ALEXANDER. Mr. President, health care reform is the agenda for the Nation and it ought to be. We, on the Republican side, want health care reform, but we want the right kind of health care reform. Our focus is on costs. Our focus is on the cost to each American as he or she buys their health care policy; our focus is on the cost of the Government of the United States, for which each American has a responsibility to pay. What we have to do is to reduce costs to make it easier for Americans to afford their health care and to afford their government.

Every single one of us knows that unless we reduce the increasing costs of health care we will not be able to pay our bills in Washington, DC. We are in the midst of appropriations bills, and there is well-meaning debate here about whether we should spend more money for national parks and for safe drinking water and other urgent needs we have. That is the bill we are talking about today—clean air. Well, we should spend money on those urgent needs. Americans want us to do that. But we can't have those dollars, as the Senator from Alabama pointed out yesterday, if we continue to increase the debt—trillions in debt—and run up the interest rate bill.

We are headed toward a situation where, by the end of this decade, we will be spending \$800 billion a year on debt—more than we spend on national defense, eight times as much as we spend from Washington on education this year. So those dollars could either be in the pockets of the American people for them to spend for themselves or we could be spending those dollars to clean the air, to relieve traffic conges-

tion or to provide Pell grants and student loans so Americans can go back to school. Those are the things government ought to be spending money on, not on increasing debt.

So health care reform is, first, about cost—the cost to Americans for their own health care policies and the cost of their debt. The President noted this the other night and said in his remarks to us and to the American people that the health care bill couldn't add one dime to the deficit. That is reassuring because the President's proposals are already adding \$9 trillion to the deficit over the next 10 years. He is doubling or tripling the national debt, which means he is adding more to the debt by a factor of two and then three than all the other Presidents put together. So surely we don't want to add more to it with a health care reform bill.

But when the President said that, he completely wiped out all the Democratic health care bills that have been proposed so far from the House and from the Senate. The Congressional Budget Office has said the Senate HELP Committee and the bills in the House all add to the debt in the first 10 years and in the years after that. So they should be off the table, according to the President's own standards.

Now we are looking at the Finance Committee in the Senate to see what they can do. Mr. BAUCUS, the Senator from Montana, has worked very hard in a good-faith, bipartisan way to try to develop a bipartisan bill—a comprehensive bill. But as we read the bill, there are a great many things to be worried about. For example, if you don't buy a health care plan, the IRS will tax you.

The President and George Stephanopoulos, on a Sunday show—and Senator GRAHAM said the President seemed to be on every Sunday show except the Food Channel—were talking about the definition of tax. So that is the first thing. The second is the Medicare cuts.

I see the Senator from Arizona has come, and I would say to the Senator, through the Chair, we have received permission from the Chair to engage in a colloquy between myself and other Republican Senators who might come. I have already pointed out that the President himself has disqualified all the plans our committee worked on, the HELP Committee and from the House, because they all add to the debt. Now we see the Baucus plan coming forward, and I wonder if the Senator from Arizona has had an opportunity to look at—of course, that is not a bill yet. We all understand that. It is just concepts, and we will want to make sure we have time to read the bill and to know what it costs. But I wonder if the Senator from Arizona has had an opportunity yet to form an opinion about whether the Baucus bill does what we had hoped, which is reduce the cost to the American people of what their insurance costs and reduce the cost to the American people of their government in Washington.

Mr. MCCAIN. Well, I thank my colleague from Tennessee and the great

work he has been doing. First of all, I would ask my friend if he has had the same experience I have had at townhall meetings and that is from one of the hand-done signs—not printed-out signs but one of the hand-done signs—which says: Have you read the bill? One of the first questions at the townhall meeting was: Have you read the bill? Of course, that is an impossibility for anyone to read the bill because there is no bill before the Finance Committee, it is my understanding. I understand it is about 200 pages of a "framework." I think the Senator from Tennessee and I are keenly aware that many times there is a comma, a word inserted here, a word taken out there which changes the entire legislative impact.

The American people are a lot smarter than we give them credit for. They know that in the middle of the night, many times legislation is written and turned into the kind of legislation that, frankly, unless you go through it page by page, word by word, you don't know the final impact. So what I, first, wish to say to my friend from Tennessee is that apparently the Finance Committee is working to turn out a legislative package that is not in legislative form, and I am curious how the Members would understand what is in it.

I guess the second point is, there is still no serious consideration of a couple of the fundamentals—medical malpractice or medical liability reform or, obviously, the ability to go across State lines to purchase insurance and allowing small businesses to pool their assets so they can compete for health insurance policies that large corporations are able to.

The other question I would ask, because I know my friend from Tennessee has had many roles in his long political life, has the Senator from Tennessee, as a former Governor, had any contact with the Governors and their organizations as to how much additional costs would be added to those States, which are already in dire shape—certainly mine is—in the form of additional Medicaid costs?

I notice the majority leader at first complained about the bill and the cost it might accrue to his State of Nevada, but I guess that has been fixed to his satisfaction. But I don't think the other States—a State such as mine, which is still looking at over a \$50 billion deficit—probably would be eager to absorb dramatically increased Medicaid costs. I wonder if my friend, a former Governor, former Cabinet member, former candidate for President, former dog catch—excuse me, someone who has had many roles in American life, would respond to that.

Mr. ALEXANDER. One of my friends said to me after I was Governor: Rooster today, feather duster tomorrow. And I am afraid I am in the feather duster category.

The Senator has made a terrific point. I want to go to the Senator from Oklahoma, who has just arrived, to

talk about this, one of the physicians in the Senate. But on the first point, we need to read the bill, and there is no bill. Yesterday, Republicans tried to get the Finance Committee to say once there is a bill that at least for 72 hours it would be on the Internet. Then we need to know what it costs because even the President said—

Mr. MCCAIN. If I might interrupt, if it were on the Internet for 72 hours, maybe as many Americans who wanted to would be able to read the bill themselves.

Mr. ALEXANDER. They could let us know what they think of it, and then we need to know what it costs.

As to Medicaid, every Governor in America is worried about this. The Democratic Governors and Republican Governors have said to us: If you want to expand the Medicaid Program, which the States pay 40 percent of, you pay for it because we can't raise State taxes or raise tuitions or cut the highway program to do that.

The Senator from Oklahoma heard Senator MCCAIN's question. The Senator from Oklahoma and Senator BARRASSO the Senator from Oklahoma has delivered thousands of babies, and the Senator from Wyoming is an orthopedic surgeon. They have been touring the country, listening to a lot of doctors and physicians and medical personnel. I wonder if you have a reaction, Senator COBURN, to the questions of Senator MCCAIN?

Mr. COBURN. First of all, let me say my biggest concern for my patients in this whole debate is, will the American consumer still have the power and the ability to select who is going to give them this most personal of all care when this is over? The answer to that is "no." It is not "no" for everybody, but it is a "no" for half of the American public. That is what it means.

Mr. MCCAIN. Would it be "no" for the individual who has employer-based health care and that employer then opts for the so-called public option, which would be a government-run health program? Could that employee see the same doctor?

Mr. COBURN. We don't know, but most likely half of them will not. The whole debate ought to be how do we get more value out of the health care system we have today rather than how do we add more money to the cost of health care to cover more people.

The reason my patients have trouble getting care is cost. Right now, they have choice, except if they are in Medicaid, and they have some choice if they are in Medicare because we are seeing a larger and larger percentage of doctors who cannot afford to take the Medicare reimbursements. But can they afford the care? This bill does nothing to lower health care costs. It does nothing to lower health care costs.

Mr. MCCAIN. Isn't it true, in fact, that the Congressional Budget Office has said that these increased costs, at least half of them, will be passed on to the individual?

Mr. ALEXANDER. I would say to the Senator from Arizona, that is exactly right. The Congressional Budget Office did an analysis of the impact of Senator BAUCUS's plan on insurance premiums. It showed the premiums for those in the individual market would go up. So, to the point of the Senator from Oklahoma, one of the effects of the one remaining bill that is being considered here, at a time when we are trying to reduce the cost to Americans of their policies and their government, is that premiums would go up.

Mr. COBURN. Premiums will.

Mr. MCCAIN. I have one very important question. There is no one who has led the fight against waste, fraud, and abuse more than Dr. COBURN!

Dr. COBURN, the President keeps saying we will eliminate all this fraud and abuse and waste. If we can, why don't we start tomorrow?

Mr. COBURN. I agree. We have offered for years a couple of ways to do this. I think it is important for the American people to know how much there is. The Department of Health and Human Services estimated in 2007—that is the last year for which they have numbers—that \$62 billion was improperly paid out of Medicare. The GAO, when they looked at that report, said: No, you are way off. It is at least \$85 billion, and we think it is higher.

If you look at that, that is almost 20 percent—20 cents out of every dollar—Medicaid pays out is lost to fraud. Why wouldn't we fix that first rather than say that if we fix it, we are going to take it from Medicare and put it somewhere else, when the trust fund, the HI trust fund, the hospital insurance fund, is going to be belly-up in 2017?

Mr. ALEXANDER. Mr. President, I ask Senator COBURN, isn't it true that, under the Baucus plan, about half of it would be paid for by Medicare cuts, which would then be spent on a new program?

Mr. COBURN. That is right. And Medicare is already unsustainable. So what is going to happen? There is another factor, which is we have it fixed that, with this bill, there will not be a big cut to the payments to doctors under Medicare. But in the years that follow that, there will be a 25-percent cut. If access is a problem for Medicare patients today, it is going to get worse. It is part of the lack of truth in this bill that they do not address what we have set in motion to take dollars away from the health care industry.

Mr. MCCAIN. May I ask Dr. COBURN again, if we start tomorrow, what can we do?

Mr. COBURN. The first thing is you put uncovered patients in the Medicare system and you put people in jail who are defrauding Medicare. If 30 or 40 doctors went to jail in the next 6 months in this country, you would lower Medicare costs by 10 percent because all of a sudden they would start thinking about: I can't skirt this. I can't play this game. I can't do it. The risk is too high.

As a matter of fact, here is one of the things we know. In Florida, the drug dealers have switched from being drug dealers to Medicare suppliers because they can make more money defrauding the Federal Government. It is harder to get caught and the penalties, when you are caught, are less than when you are dealing drugs. Consequently, we have all these people in the business of defrauding Medicare, and there has not been a plan that has been effective in cutting Medicare fraud because nobody knows—and the government is all about Medicare. So it, by its very design, is designed to be defrauded. We should make structural changes so it is not and with that get better care and lower cost care, like paying for outcomes rather than paying the American Medical Association to use their CPT code.

Mr. ALEXANDER. The Senators from South Dakota and Kansas have joined us.

Senator MCCAIN is leading a colloquy on the Baucus bill and health care.

I wonder, I ask Senator THUNE, if you see the Baucus bill as a bill—it is not a bill yet—that is likely to reduce costs?

Mr. THUNE. I think that is the big question about all of these various pieces of legislation we have had in front of us. What do they do to reduce costs? Even the Congressional Budget Office has said repeatedly, in this bill in particular, the Baucus bill, the most recent version of a health care reform proposal here, there is a \$1.7 trillion cost over 10 years when fully implemented.

If you actually look at what it does for most people in this country, they are going to see their health care costs not go down but go up. The premiums are actually going to increase. The reason for that is many of the taxes imposed in the bill to help pay for the cost of the \$1.7 trillion expansion are going to get passed on. So the people who get hurt by this are hard-working Americans who are expecting, if Congress is actually reforming health care, that would mean health care costs, the costs people pay for premiums for their health care coverage, would actually go down. The Congressional Budget Office, under questions that were raised yesterday by some of our colleagues, responded that dollar for dollar, those additional—those taxes that would be imposed to pay for this would actually be passed on and you would see higher health care costs.

So there has not been anything in this entire debate yet, or any of the bills that have been put before various committees or that eventually we assume will be considered on the floor here in the Senate and in the House of Representatives, that has actually impacted costs in a way that they go down, that reduces the overall cost for the people in this country.

Furthermore—and I talked about this with the Senator from Tennessee; we had this discussion on the floor yesterday—many Americans, those I heard

from in my State of South Dakota during the month of August in the many conversations I had out there, are very concerned. They are really concerned about two issues: one is control, one is cost. Who is going to control their health care? Is the Federal Government going to do it, the bureaucrat in Washington, DC? In this country, are we ceding one-sixth of our economy, more and more control to the people in Washington, DC? The Baucus bill, inasmuch as it doesn't at this moment contain the government plan, still assumes a high level of government involvement, government intervention. The government would determine which health care plans it would have to approve, which would meet the standards the government set. So you have a high level of government intervention with this plan as you have had with all the other plans.

But perhaps even more important—and this is the issue I think most Americans are really homing in on—is the cost. What is the cost to me as a taxpayer? In this case, \$1.7 trillion over a 10-year period when fully implemented. And does it reduce my cost of health care? They are going to look at it two different ways. One is, what am I going to have to owe in the form of higher taxes to finance this; and second, how is it going to impact the cost of health care for me in terms of the premiums I pay? I think it is fair to say—it is not what we are saying, it is what the Congressional Budget Office has determined—that actually the cost of health care for a lot of Americans, under this proposal, the Baucus proposal, is going to go up.

Mr. ALEXANDER. Senator THUNE, I see the Senator from Kansas is here. I wonder if Senator BROWNBACK from Kansas or you from South Dakota have been hearing from your constituents about the possibility of shifting costs from Washington to the States when, because we in Washington say it is a great idea to expand Medicaid, then we shift some of the cost of that to the State, the State taxes go up or State services go down. I wonder if you have heard anything from the people of Kansas about that, Senator BROWNBACK?

Mr. BROWNBACK. I certainly have. I appreciate the Senator from Tennessee leading this discussion and also asking that question. As a former Governor, he has dealt with these issues. He knows that when Washington dictates something—or too often Washington will dangle a little bit of money out here and say: We would like the State to do this, and here is a little money to get it started. Then 3 years in the program, 5 years in the program, the money is pulled away at the Federal level and the State is left with trying to fund this.

It is on two levels that I get it at the State level: No. 1, trying to drive so many more people into Medicaid; that is, by raising the amount of coverage of people in Medicaid, it then gets a big price tag with it—at the Federal level

initially and at the State level as well—and State budgets are really strapped right now. I was just talking with some State legislators yesterday, and they are looking at a multiple hundreds of millions of dollars hole next year—that alone, without adding additional Medicaid requirements from the Federal Government on top of that. It is clearly a huge problem for them if you are going to add a cost at a time when they don't have the funds.

The Federal Government, much of it, is saying: We are going to pay for it initially, and the proposals under Baucus are to pay for most of it initially, but I don't think there is any question that then, over time, the State is going to have to assume a bigger role of that, and that is going to be up to State responsibility.

Mr. ALEXANDER. I believe the National Governors Association chairman, of Vermont, said that all Democratic Governors as well as all Republican Governors said: Don't shift it to us. If you want to expand Medicaid from Washington, pay for it from Washington.

Mr. BROWNBACK. Pay for it and pay for it completely. But this is also a more pernicious piece of this, and that is we have 40 percent of our physicians in Kansas saying they are not taking more Medicaid patients. That is 40 percent now. Now you are talking about expanding Medicaid, the number of people in Medicaid, when 40 percent of your doctors are saying: We aren't taking them. You are saying: Why won't the doctors take it? It is not that they don't want to have Medicaid patients, but it is the reimbursement ratios they get. Listen to these numbers from MedPAC saying that Medicare provider reimbursement rates are about 80 percent of private insurance. So private insurance, and then 80 percent of that is Medicare, and then Medicaid is 72 percent of Medicare. So you are cutting it back even further, to the point that physicians are saying: I just can't afford to take more.

Mr. ALEXANDER. Medicaid is the largest government program we have today, bigger than Medicare; it has low-income Americans in every State. I believe the Baucus proposal plans to add about 11 million more low-income Americans to this plan that 40 percent of doctors will not see patients for?

Mr. BROWNBACK. They won't see them. Now what you are doing is driving people into a system that is a very low reimbursement system, that physicians are, almost half, saying: We won't take any more.

My concern here is that you are going to drive people in this system where you are not going to be able to get health care; they are not going to be able to get health care at all because of these reimbursement rates, because of the reimbursement rates physicians are having under Medicaid.

So I think that is a deadly piece of this overall proposal. It is the cost to the States, and then it is also that you

are driving people into an area where providers are fleeing and heading out of.

Mr. ALEXANDER. We have 5 minutes left. We will go to Senator THUNE and let Senator BROWNBACK wrap up our time.

But “Medicare cuts,” those are scary words to most Americans. And some people say: Well, you Republicans are trying to scare the seniors of America when you say the words “Medicare cuts.”

But is it not a fact that the Baucus plan would cut Medicare by about \$500 billion and use it for a different program instead of shoring up the Medicare Program?

Mr. THUNE. We know for a fact that the Medicare trustees have said the Medicare Program is destined to be bankrupt in the year 2017. So Medicare is already on an unsustainable path. It needs to be shored up. And what we are talking about doing is getting savings, if you want to call them that, or “cuts,” I would say out of Medicare to create a whole new entitlement program here in Washington, instead of fixing and making more sustainable a Medicare Program that, as I said, is destined for bankruptcy by the year 2017.

I think most seniors and most providers around the country are going to be very concerned about the idea of having cuts in the Medicare Program, \$500 billion, as the Senator from Tennessee has mentioned, go to paying for this new entitlement program which, as I said earlier, over a 10-year period is going to cost \$1.7 trillion.

So I think you are not only going to have, as the Senator mentioned, a lot of providers very concerned about cuts, I think you are going to have an awful lot of seniors who are concerned about how their Medicare benefits are going to be impacted by this proposal. I would add to what the Senator has already talked about, and I know the Senator from Tennessee's Governor has called some of these Medicaid expansions “the mother of all unfunded mandates.”

I have had numerous conversations with my Governor in my State of South Dakota about this. It would cost our State about \$45 million a year, new revenues they would have to raise, to meet the matching requirements under this expansion of Medicaid.

In my State of South Dakota, that is real money. I know that does not sound like a lot out here in Washington. But that really is. My Governor is very concerned, as are all Governors, about the impacts not just on Federal budgets but on State budgets.

Of course, as the Senator from Tennessee and the Senator from Kansas have pointed out, Medicare—and I might add, I love the quote from the CEO of Mayo, which the Senator from Tennessee has mentioned, “If the public plan looks like Medicare, I think the country would go broke almost

overnight," because Medicare is already proposed to go broke by 2015 to 2017.

I think that is the problem we run into when we try and build upon a foundation that is already crumbling. The Medicare Program is destined to go bankrupt. We are talking about adding a whole new entitlement. Instead of trying to figure out how to plow some of these savings back into Medicare and make it sustainable, we are actually adding to and building upon a foundation that is already crumbling.

Mr. ALEXANDER. We have about a minute and a half left in our time. I wonder if Senator BROWNBACK would conclude.

Mr. BROWNBACK. Mr. President, I think to put it in Kansas-type terms, if you are talking about taking savings from Medicare to start a whole new health care entitlement program, that is like writing a big fat check on a completely overdrawn bank account to buy a new car.

You are going: Now, well, who would do something like that? When you are saying: Well, that is what the Federal Government is looking at doing in this proposal that Senator BAUCUS has put forward.

Medicare is not sustainable. It is not fiscally sound. You are going to write an overdraft check on that to start a whole new program that you do not have the wherewithal to do, that most Americans do not want to see you do because they want to see you fix the current program and get it on a sustainable basis.

It does not make sense. It is out of the stream of thought of the American public. We ought to back up, stop, and go at this in incremental changes, to get costs down and more people covered, that do not drive costs up, that do not do a big federal takeover of the system.

Mr. ALEXANDER. I thank Senators THUNE and BROWNBACK.

Obviously, we believe that instead of a 1,000-page bill, we should do what Senator BROWNBACK said. We should go step by step to re-earn the trust of the American people. For example, permitting small business plans to pool their resources to offer more insurance to a million people; buying insurance across State lines; stopping runaway junk lawsuits against doctors; signing up those people already eligible for Medicaid and SCHIP; and encouraging technology.

All of those are steps we can agree on and reduce costs, without running trillions of dollars of new debt, more taxes, and Medicare cuts. I thank the Senators from South Dakota and Kansas for participating in our colloquy.

I yield the floor.

#### RECOGNITION OF THE MINORITY LEADER

The PRESIDING OFFICER (Mrs. SHAHEEN). The Republican leader is recognized.

#### HEALTH CARE WEEK X, DAY III

Mr. MCCONNELL. Madam President, over the past several months, the American people have made their voices heard in the debate over health care. Everyone is frustrated at the high cost of even routine services and procedures. But the good news is this: everyone agrees that these are real and pressing issues and that Congress can and should do something to help.

Unfortunately, the Democrat plan being contemplated here in Congress is not content simply to address the problems at hand. Instead, this plan uses these problems as an excuse to dismantle the current health care system, slap together a new one as quickly as possible, and force it on the American people whether they like it or not.

That is what is going on this week in the hearing room of the Finance Committee.

The U.S. Congress is hashing out the details of an enormously complicated bill that calls for a massive expansion of Washington's role in the health decisions of every single American. And when they are done, they plan to rush this so-called reform through Congress and force it on a country that is overwhelmingly opposed to it.

But there is really only one thing Americans need to know about this legislation: When all the talking is through, what is left is this: a trillion dollar experiment that cuts Medicare, raises taxes, and threatens the health care options that millions of Americans enjoy.

The administration has been telling Americans for months and months that if they like the coverage they have, they can keep it. Whoever believes this apparently is not familiar with the bill that Democrats in Congress want the President to sign. If they were, they would realize that it creates a new government standard for coverage, and that anyone who falls below that standard will be forced to buy a different health plan.

Government would tell you which plans you can have and which ones you can not, and if you do not like the plan they suggest, then you will have to send a check to Washington. You will get taxed. That is government expansion. Americans do not want it.

Americans are worried about spending. It seems like every time they turn around they are hearing about another trillion-dollar spending bill coming out of Washington. Well here is another. Once again, it is being rushed through Congress, and once again, we will not have enough time to read it. They made sure of that yesterday. My Republican colleague from Kentucky, Senator BUNNING, offered an amendment to give senators the time they need to study the details. Democrats struck it down.

Taxes are already high enough. They are about to get higher. This legislation will lead to significantly higher taxes on just about everybody in America. If you have health insurance, you

are taxed. If you do not have health insurance, you are taxed. If you need prescription medicine, you are taxed. If you need a medical device, you are taxed.

All these taxes would be bad enough if they were not so hard to understand.

For months we have been hearing that the goal of reform is to lower costs. Yet any school kid in America can tell you that raising taxes on something raises its cost. And every nonpartisan, independent study we have seen confirms this basic economic principle. Despite all the talk of lowering costs, all these higher taxes mean that, as a result of this legislation, health care costs are headed in one direction, and that is up.

What is worse, the Joint Committee on Taxation and the Congressional Budget Office say that some of the worst taxes would fall squarely on the backs of consumers: not on the rich, but on ordinary Americans who are already struggling through a recession.

Seniors take a serious hit from this legislation, either through cuts in services that millions of them currently enjoy, or by being forced off the plans they have. All told, this bill calls for nearly \$140 billion in cuts to Medicare Advantage; nearly \$120 billion in Medicare cuts for hospitals that care for seniors; more than \$40 billion in cuts to home health agencies; and nearly \$8 billion in cuts to hospice care.

Everyone agrees Medicare needs reform. This is not reform. This is a massive raid on a program millions of seniors depend on in order to cover the cost of another new government program. This bill uses Medicare as a piggy bank to pay for this experiment.

There is no question that Americans want health care reform. They want lower costs. They want greater access. They want commonsense reforms, like a plan to get rid of junk lawsuits on doctors and hospitals and to level the playing field when it comes to taxes on health plans. But what they are getting from Congress instead is a trillion-dollar experiment that cuts Medicare, raises taxes, and threatens the health care options that millions of Americans now enjoy. And here is the worst part: they are being told that all this has to be rushed through Congress on some artificial timeline.

Americans have been asking us to slow down. Congress is doing the opposite.

This is not how Americans expect us to do their business. We need nonpartisan groups like the Congressional Budget Office to tell us how much this legislation will cost and how we would pay for it, and we need to slow down and get it right. We need to give Members of Congress the time they need to understand what they are going to be voting on. And we need to give the American people the time they need to understand this legislation too. This bill is too big, too costly, and too important to allow anything less.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

#### ORDER OF PROCEDURE

Mr. REID. Madam President, I ask unanimous consent that the time for the cloture vote, now set for 10:30 a.m., be extended until 11 o'clock this morning.

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

Mr. REID. Mr. President, for the knowledge of all Members, we are very close to being able to work out an agreement on the finalizing of the Interior appropriations bill. There are some language problems the staff is working on now. But we should have a series of amendments—it could be as many as seven, eight amendments—and we will try to do those in a block of time. We have 23 members who are trying to work out something in the Finance Committee as it relates to health care, so we would like to have those votes in a block of time sometime this afternoon. But we should be able to have a consent agreement that will be approved by Senator McConnell and me in the near future.

Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant bill clerk proceeded to call the roll.

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

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

#### EXTENSION OF MORNING BUSINESS

Mr. REID. Madam President, the time between now and 11 o'clock, I ask unanimous consent that be time for morning business, with Senators allowed to speak therein for up to 10 minutes each.

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant bill clerk proceeded to call the roll.

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

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

Mr. BOND. Madam President, are we in morning business?

The PRESIDING OFFICER. Yes, we are.

#### AFGHANISTAN/PAKISTAN STRATEGY

Mr. BOND. Madam President, I rise today to call for the testimony before Congress of our top military commanders in Afghanistan, GEN Stanley McChrystal and General Petraeus. Congress and the American people need to hear directly and as soon as possible from the generals to ensure that political motivations in Washington do not override the vital needs of our commanders and our troops on the ground.

Ordinarily, I don't like the idea of calling generals away from their duties in theater but, unfortunately, in the often surreal world of Washington politics, all the hard work by our military and intelligence professionals on the battlefield in Afghanistan can be undone very quickly. Unfortunately, the latest verbal wavering by the administration and some of my colleagues in Congress can do just that.

Last November, when I sent my report, the Roadmap to Success in South Asia, to then President-elect Obama and his national security team, I outlined the importance of messaging to our overall success in Afghanistan and Pakistan. For too long, the United States has flailed about with an uncoordinated communication plan. In other words, we have been off message.

Unfortunately, the enemy has continued to hone its own message. Radical Islamic terrorists have staged suicide attacks for maximum publicity, propagandizing their message on the Internet, and convinced their fellow terrorists-at-arms that they will defeat the international community.

Negative and indecisive comments by the President, broadcast worldwide, have now given the enemy a big win in the public information battle.

On CNN, the President questioned: "Are we pursuing the right strategy?"

On NBC's "Meet the Press," the President's words were even more disturbing, signaling a lack of confidence in his earlier strategy. The President said:

If an expanded counterinsurgency strategy in Afghanistan contributes to the goal of defeating al-Qaida, then we will move forward. But, if it doesn't, then I'm not interested in just being in Afghanistan for the sake of being in Afghanistan or saving face or . . . sending a message that America is here for the duration.

Comments such as these call into doubt America's commitment to Afghanistan. They give hope to the terrorists—hope that America's resolve is not real, and that they only need to wait us out to win the war.

The people of Afghanistan get the message that we are leaving soon. The implied message is that you better work with the Taliban and al-Qaida, because they will be here after America leaves. This is a public bonanza in diplomacy for our terrorist enemies.

At the same time, these comments have done a great disservice to our men and women serving in harm's way. These heroes need our country's un-

wavering support, not vacillation because of political pressures.

President Obama's recent comments present a stark and dangerous contrast to his earlier resolve—resolve that I applauded on this floor and publicly and proudly supported. When President Obama commissioned General McChrystal's assessment of the situation in Afghanistan, I believed that he was genuinely interested in receiving the general's expert, on-the-ground perspective and his informed opinion of what strategic and tactical changes would be required for success.

Unfortunately, it now appears that the President has developed a sudden case of buyer's remorse. It seems increasingly clear to me the Obama administration is inclined to reject the counterinsurgency strategy recently recommended by General McChrystal and endorsed by the head of the U.S. Central Command, GEN David Petraeus and the Chairman of the Joint Chiefs of Staff, ADM Mike Mullen. In a bewildering twist, this is the same counterinsurgency strategy the President himself endorsed this past March.

I have been a strong and vocal supporter of the administration's new strategy in Afghanistan, so I was particularly disappointed by the President's suggestion this past Sunday that he is reconsidering the American commitment to the war in Afghanistan.

I am also deeply disturbed by press reports that Defense Secretary Gates will delay sending General McChrystal's troop request to the White House because the White House is not ready to receive it. Given the President's resolve this spring, I am somewhat puzzled by the strange treatment of General McChrystal's assessment and troop request. Unnecessary delay is not our friend in this war.

The clearest reason for this delay seems to be that the President is considering not granting General McChrystal's request. Instead, we are now hearing that he may push for a more aggressive covert war against al-Qaida leadership in Pakistan.

We all want to eliminate the al-Qaida leadership that plotted and planned the attacks that claimed more than 3,000 American lives on September 11. And depending on the details, more aggressive action in Pakistan may be a good thing. But such action should be in addition to, not a substitute for, giving our troops in Afghanistan all the resources and supporting personnel they need to succeed.

While denying al-Qaida and Taliban militants sanctuary in the border regions of Pakistan is critical, a counterterrorism-only approach, focusing on one part of this regional conflict, will ultimately hand victory to the world's most violent and feared terrorists. This type of counterterrorism-only approach failed us in Iraq and it has failed us in Afghanistan for the last 7 years.

I have consistently called for—and President Obama had promised—a comprehensive counterinsurgency strategy designed to meet a set of clearly defined goals for the Afghanistan-Pakistan region. The Obama administration has rightly characterized the problem as involving both of these two countries. But right now, we have a plan only for one country.

I am not suggesting it is General McChrystal's job to set that wider. As directed by the President and by our NATO allies whom he represents as commander of ISAF, the general has laid out a good strategy for success in Afghanistan and that strategy includes a request for more boots on the ground. I understand there is a lot of hand-wringing in Washington right now over Afghanistan. We saw the same reaction over sending more troops into Iraq 2 years ago. The political courage shown by the White House and Congress back then proved to be successful. Today, we must marshal the same courage and give General McChrystal what he needs to get the job done.

Amid the reports of wavering and hand-wringing, an important question comes into mind: What has changed? During the campaign and after his inauguration, the President spoke repeatedly about the importance of winning the war in Afghanistan.

For example, on March 27, 2009, when he rolled out his comprehensive new strategy for Pakistan and Afghanistan, the President declared that:

To succeed, we and our friends and allies must reverse the Taliban's games and promote a more capable and accountable Afghan government. Our troops have fought bravely against a ruthless enemy. Our civilians have made great sacrifices. Our allies have borne a heavy burden. Afghans have suffered and sacrificed for their future. But for six years, Afghanistan has been denied the resources that it demands because of the war in Iraq. Now, we must make a commitment that can accomplish our goals.

I was heartened by these words. I agreed with the President on the need for a fully resourced counterinsurgency campaign and a solid commitment to ensure the security of the Afghan people and our own vital interests. I applauded his recognition of winning this war when he told our veterans, the VFW, this past August:

Those who attacked America on 9/11 are plotting to do so again. If left unchecked, the Taliban insurgency will be an even larger safe haven from which al-Qaida would plot to kill more Americans. So this is not only a war worth fighting; this is fundamental to the defense of our people.

But our troops in the field have now been waiting over 6 months for the President to follow through on his promises. As General McChrystal's recently leaked assessment points out, time is of the essence, and we cannot afford more stalling by the administration on this vital national security issue.

The general said the next 9 to 12 months are critical and that is why we need a decision now. I call on the Presi-

dent to heed his own words from this past weekend. Let's ignore the politics of the moment and finish the job in Afghanistan.

I recognize we have not yet seen any official numbers associated with General McChrystal's troop request, but I am very encouraged by the general's emphasis on putting more of an Afghan face on operations. I believe our ultimate success depends on our ability to hand responsibility for security over to Afghans.

I was also gratified to see the report's strong emphasis on the importance of "smart power" to achieving success. While the assessment does not actually use the term, the concept is woven into the core of the report. General McChrystal and others have been clear that traditional kinetic military efforts alone will not achieve the success we need. Success will be attainable only if we maximize the ability of nonmilitary agencies of the United States Government to work through Afghan institutions to achieve stability, reconstruction, and the rule of law.

As I have said repeatedly on the floor, the efforts by the National Guard, led by my own Missouri National Guard, to bring agricultural experts, including full-time farmers who also serve as trained military soldiers, who have gone into Nangarhar Province and in 1 year transformed the agriculture of Afghanistan so they could make a greater profit from raising legitimate crops and taking Afghanistan and Nangarhar Province from the No. 2 poppy-producing province in the nation down to almost zero poppy production. Six more National Guards from different States are there now. More are coming. Two weeks ago, I challenged all of the Nation's National Guard and their commanders at their meeting in Nashville to commit to send a National Guard unit from every State to an appropriate province where they can help, and they can make a difference. That is part of smart power. They need to bring the economic resources and the structures and the information and experience we have, protected by soldiers and airmen of the National Guard who can defend themselves and those they are protecting. That is smart power.

In the McChrystal report, the Afghan Defense Minister rejected the popular myth that Afghanistan is a graveyard of empires and we are destined to fail there. I couldn't agree more. As General McChrystal affirmed in his report: "While the situation is serious, success is still achievable." The Obama administration and Congress must each do its own part to give our troops the resources and time they need to make that success a reality.

Let's not snatch a defeat from the jaws of victory in Afghanistan just because a few pundits are pedaling political pessimism in Washington. All the experts, including General McChrystal, agree we need a properly resourced

counterinsurgency strategy, and we need it now. It is time to listen to our commanders on the ground, not the ever-changing political winds whispering defeat in Washington.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant bill clerk proceeded to call the roll.

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

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

Mr. VOINOVICH. Madam President, I ask unanimous consent to speak as in morning business for up to 10 minutes.

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

#### EASTERN EUROPE

Mr. VOINOVICH. Madam President, I rise to discuss America's relationship with our Eastern European friends as well as the challenges America faces in our relationship with Russia.

Over the last decade in the Senate, I have been a champion of NATO and worked diligently to increase membership in the alliance. I have also been active in improving our image in Eastern Europe through the expansion of the Visa Waiver Program at the request of our friends and allies in Eastern Europe. My passion for foreign relations stems in large part as a supporter of Ohio's diverse ethnic communities. As mayor of Cleveland and Governor of Ohio, I gained a keen understanding of Europe from my close work with constituents who had ties to countries that were once subject to life behind the Iron Curtain. This goes back to my first paper in undergraduate school and how the United States sold out Yugoslavia at Teheran and Yalta.

We did see the Berlin Wall fall and the Iron Curtain torn thanks in part to the efforts of Pope John Paul II, President Reagan, and President George H.W. Bush. But even with the end of the Cold War, I was deeply concerned that darker forces in Russia could once again reemerge as a threat to democracy, human rights, and religious freedom not just for the Russian people but for the newly freed "captive nations" of Eastern Europe.

I understood getting those nations into NATO could make the alliance more vibrant and healthy and give them safe harbor from the possible threat of Russian expansionism. One of my proudest moments in the Senate was being present at Prague in March of 2002 in the room when Lord Robertson announced that seven countries—Bulgaria, Estonia, Latvia, Lithuania, Romania, Slovakia, and Slovenia—were invited to join NATO.

When I was Governor of Ohio and chairman of the National Governors Association, I led an effort in 1998 to



secure passage of an all-50-State resolution in support of NATO expansion for the Czech Republic, Hungary, and Poland. These new members have brought great vigor to the NATO Alliance and are now some of our strongest allies working alongside our troops in Iraq and Afghanistan—especially Afghanistan.

As such, I was astounded last week to see the Obama administration appear to turn its back on some of our staunchest NATO allies. Last week's missile defense announcement was made with little advance notice or consultation and disregarded the great political capital expended by the leaders of Poland and the Czech Republic. This decision leaves the impression that the United States is dealing unilaterally with Russia without regard to our NATO allies. Regardless of the merits of the decision itself—and I had a chance to talk to Secretary Gates about it, and it makes sense that this was a good decision—the manner in which it was revealed to Warsaw and Prague was a major public relations and public diplomacy blunder.

The Polish people are up in arms about the decision—and not so much with the decision, but the way it was handled and the disregard for handling it in a proper fashion. The fact also that the decision was announced on September 17, 2009, the 70th anniversary of the Soviet invasion of Poland, makes it even worse. The way this decision was communicated shabbily to Poland and the Czech Republic should also send a shiver down the spines of our brothers and sisters in Eastern Europe and their Baltic neighbors, who are concerned with Russia's aggressive efforts to reassert its influence in what was once the Soviet Union.

In an opinion piece in last Friday's edition of the Washington Post, David J. Kramer, of the German Marshall Fund, notes that:

Whatever the official explanation now for not moving forward, many—including the Kremlin—will read this shift as an effort to placate Moscow. Announcing the decision ahead of [President] Obama's meeting with Russian President Dmitry Medvedev this week in Pittsburgh reinforces such thinking.

I had the opportunity this past July to travel to the Baltic States with my friends Senators Durbin, Cardin, and Wicker as part of the U.S. delegation to the Organization for Security and Cooperation in Europe, to the parliamentary assembly that was held in Vilnius, Lithuania. As part of that trip, I also visited Riga, Latvia—a stop that marked the highest ranking official visit of the United States in Latvia in over 3 years. In all of our bilateral meetings with Presidents, Prime Ministers, and Foreign Ministers from former Soviet countries or countries the Soviet Union exercised influence over, we were told it was comforting for them to know their membership in NATO serves as a hedge against a potential expansionist Russia.

We should be worried about the uncertainty surrounding a Russia that is

reverting back to a KGB-ruled country seeking to weaponize its oil and natural gas resources as a means to expand its influence on Europe and the West.

I think one of the concerns we all ought to have is that many members of the European Union, instead of coming together and negotiating with Russia over the issue of natural gas, are cutting their own deals. I think we should be very concerned that in the long run many of those countries are not going to be able to make good decisions because of the influence Russia will have over their natural gas resources.

Russia has the world's largest reserves of natural gas and has the eighth-largest oil reserves. Moscow turned off the tap to Ukraine this past winter. They could do it again. We should also be concerned about Moscow using its control of oil and natural gas to pit members of NATO against each other.

There is much talk about resetting the U.S. bilateral relationship with Russia. Moscow seeks to regain its global stature and be respected as a peer in the international community. There is nothing inherently wrong with this.

I believe there are key areas where the United States and Russia share common cause and concern: Russia is a permanent member of the U.N. Security Council and will be essential to effective multilateral pressure on Iran to give up its nuclear program; Russia continues to have leverage on the North Korean regime and has stated that a nuclear-free Korean peninsula is in the interest of both our countries; we are partners on the International Space Station—in fact, we are going to rely on them to send our NASA people to the space station; and, until the Georgia situation flared in August of last year, our government and U.S. industry were working hard on a nuclear cooperation agreement with Russia, very much like the one we entered into with India.

With the world economy as it is today, the worst thing we could do is break off communication and revert back to our Cold War positions. This week's G-20 conference in Pittsburgh is an opportunity to further engage Russia and determine where we have a symbiotic relationship and what we can accomplish together for the good of the international community. Nevertheless, such a reset should not come at the expense of our Eastern European friends.

Time will tell whether last week's decision will have any influence on Russian cooperation on the Strategic Arms Reduction Treaty—START—or our efforts to prevent a nuclear-armed Iranian regime.

In the meantime, we have our work cut out as we seek to rebuild confidence and trust with our friends in Eastern Europe. After last week's events, I suspect that their confidence in the reliability of the United States as a partner and ally has been shaken.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. BURRIS. Madam President, I would like to speak in morning business.

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

#### RYAN WHITE HIV/AIDS TREATMENT MODERNIZATION ACT

Mr. BURRIS. Madam President, in my home State of Illinois, there are roughly 44,000 people living with HIV or AIDS.

Every day, these Americans face deadly illnesses that require delicate—and often expensive—treatment.

Thankfully, they don't have to fight this fight alone.

Across America, about 500,000 HIV patients who don't have adequate income or insurance are currently able to receive assistance under the Ryan White HIV/AIDS Treatment Modernization Act.

This program supports a wide range of medical and support services that benefit HIV and AIDS patients.

Illinois alone receives \$75 million in Federal funds that serve more than 10,000 people.

These programs make a real difference, not just in my home State, but in every State in the Union.

They are critically important not only for the people who receive treatment, but for public health in general.

That is why we cannot let the Ryan White Act expire on September 30.

If we do not take action right now to reauthorize this program, the treatments will stop.

If we do not stand up for those who need our help, half a million Americans will suddenly find themselves out in the cold.

We cannot let that happen. We must act now keep this safety net in place.

That's why I support a 3-year extension of the Ryan White Treatment Modernization Act.

But we shouldn't stop there.

As we reauthorize this legislation, it is a great opportunity to make a few small changes to make it more effective.

We should update the Ryan White Act, to make HIV/AIDS information more accurate.

We need to maintain transitional grant areas, so that essential services can be better matched with existing needs.

We should make sure medical transportation and dietary treatments are covered for all patients.

And we should use common sense to ensure that rebates and grants are



classified and awarded the right way, with less bureaucratic redtape.

This will make the system more efficient, and it will increase the impact this program can have on people's lives.

More than 250 AIDS organizations have already expressed support for these changes, and for the reauthorization of this program.

It is time to stand with them.

It is time to stand with all the people who need treatment.

Let us send a strong message to those who are counting on us to keep the money flowing:

We will not abandon you in your time of need.

If this Senate fails to act by September 30, the aid will stop.

These successful programs—which enjoy broad, bipartisan support—will simply cease to exist.

We cannot let that happen on our watch.

I ask my colleagues to join with me in updating and reauthorizing the Ryan White Act.

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

#### INTERIOR APPROPRIATIONS

Mr. REID. Mr. President, first of all, we have a unanimous consent agreement that has taken a lot of work. I appreciate the work of the two managers, Senator FEINSTEIN and Senator ALEXANDER. It is not easy, but this is an important piece of legislation. I think it is good for the body.

I heard my friend—I will be real quick; I know we are in a hurry—commenting on the dinner we had last night. I think that was such a timely, fortuitous event we had with Senators getting together to, in effect, cut the ribbon on this wonderful picture out there, 147 years old.

I did not know much about Henry Clay other than he is a famous man but a great compromiser. He said everything legislatively you need to develop a consensus. Legislation is the art of compromise. This is a smaller piece; it is not Henry Clay stuff, but it is good stuff. I appreciate the two managers following in the footsteps of Henry Clay and we were able to work this out.

I ask unanimous consent that the following be the only first-degree amendments and an Ensign motion to recommit, other than the pending amendments, remaining in order to H.R. 2996, Interior appropriations; and that no second-degree amendments be in order

to any of the listed amendments prior to a vote in relation to the amendment, except as noted with respect to Coburn amendment No. 2511; that a managers' amendment also be in order that has been cleared by the managers and the leaders, and that if that amendment is offered, then the vote on adoption of the amendment occur immediately; and that if agreed to, then the motion to reconsider be considered made and laid upon the table:

Carper No. 2456, pending, to be withdrawn once a managers' amendment has been agreed to; Collins No. 2498, pending; Isakson No. 2504, as modified, pending; Vitter No. 2549; Ensign motion to recommit; Coburn amendment Nos. 2482, 2463, 2480, 2523, 2466, 2483, 2468, and 2511, with a Feinstein second-degree amendment in order to No. 2511; Feingold No. 2522, to be withdrawn upon the adoption of the managers' amendment; Reid No. 2531; Bingaman No. 2493, with a modification; further, that during the consideration of the bill, Senators Murkowski and Thune each be provided up to 30 minutes, and Senator BOXER for up to 60 minutes for debate only; that upon disposition of all amendments and the motion to recommit, the substitute amendment, as amended, be agreed to, the motion to reconsider be considered made and laid upon the table; that the bill, as amended, be read a third time, and the Senate then proceed to vote on passage of the bill; that upon passage, the Senate insist on its amendment, request a conference with the House on the disagreeing votes of the two Houses, and that the Chair be authorized to appoint conferees on the part of the Senate, and that the subcommittee plus Senators Inouye and Bond be appointed as conferees; further, that if a point of order is raised against the substitute amendment, then it be in order for another substitute amendment to be offered minus the offending provisions but including any amendments which had been agreed to prior to the point of order; that no further amendments be in order; that the new substitute amendment be agreed to, and the motion to reconsider be considered made and laid upon the table; and that the remaining provisions beyond adoption of the substitute amendment remain in effect; that if there is a sequence of votes, then after the first vote, the succeeding votes be limited to 10 minutes each and that there be 2 minutes of debate prior to each vote, equally divided and controlled in the usual form; that once this agreement is entered, the closure motions be withdrawn.

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

#### CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

#### DEPARTMENT OF THE INTERIOR, ENVIRONMENT, AND RELATED AGENCIES APPROPRIATIONS ACT, 2010

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of H.R. 2996, which the clerk will report.

The bill clerk read as follows:

A bill (H.R. 2996) making appropriations for the Department of the Interior, Environment, and related agencies for the fiscal year ending September 30, 2010, and for other purposes.

Pending:

Carper amendment No. 2456, to require the Administrator of the Environmental Protection Agency to conduct a study on black carbon emissions.

Collins amendment No. 2498, to provide that no funds may be used for the administrative expenses of any official identified by the President to serve in a position without express statutory authorization and which is responsible for the interagency development or coordination of any rule, regulation, or policy unless the President certifies to Congress that such official will respond to all reasonable requests to testify before, or provide information to, any congressional committee with jurisdiction over such matters, and such official submits certain reports bi-annually to Congress.

Isakson modified amendment No. 2504, to encourage the participation of the Smithsonian Institution in activities preserving the papers and teachings of Dr. Martin Luther King, Jr., under the Civil Rights History Project Act of 2009.

AMENDMENTS NOS. 2492, 2501, 2505, 2509, 2518, 2519, 2522, 2534, AS MODIFIED; 2491, AS MODIFIED; 2495, 2507, 2493, AS MODIFIED, EN BLOC

The PRESIDING OFFICER. The Senator from California is recognized.

Mrs. FEINSTEIN. Mr. President, as part of the unanimous consent agreement entered into this morning by the leader, a managers' package of amendments to the Interior bill is in order.

I would like to proceed to that business now because of yesterday's filing deadline for all first-degree amendments. Each of these amendments which constitute the managers' package have been filed at the desk.

Therefore, I ask unanimous consent that the pending amendment be set aside, and that the following amendments be called up and considered en bloc, and where modifications are noted, that those modifications be agreed to: Bingaman amendment No. 2492; Risch amendment No. 2501; Carper amendment No. 2505; Roberts amendment No. 2509; Feinstein amendment No. 2518; Feinstein amendment No. 2519; Feingold amendment No. 2522; Whitehouse amendment No. 2534, as modified; Bingaman amendment No. 2491, as modified; Schumer/Durbin amendment No. 2495; Tester/Crapo amendment No. 2507; and, Bingaman amendment No. 2493, as modified.

Let me make one note with respect to Carper amendment No. 2505. The amendment being included in the managers' package is very similar to pending Carper amendment No. 2456. But the version we are adopting now is the version that has been agreed to by both

sides. At the proper time, then, I believe we will be in a position to withdraw the pending Carper amendment No. 2456.

In order to comply with Senate rule XLIV, which requires Members to certify that they have no financial interest in congressionally designated spending items, I also ask unanimous consent to have printed in the RECORD financial disclosure letters associated with amendments Nos. 2501 and 2518.

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

U.S. SENATE,

Washington, DC, September 16, 2009.

Hon. DANIEL K. INOUE,  
Chairman, Senate Committee on Appropriations,  
U.S. Capitol, Washington, DC.

Hon. THAD COCHRAN,  
Ranking Member, Senate Committee on Appropriations,  
U.S. Capitol, Washington, DC.

Hon. DIANNE FEINSTEIN,  
Chairman, Appropriations Subcommittee on Interior,  
Environment, and Related Agencies,  
Dirksen Senate Office Building, Washington, DC.

Hon. LAMAR ALEXANDER,  
Ranking Member, Appropriations Subcommittee  
on Interior, Environment, and Related  
Agencies, Dirksen Senate Office Building,  
Washington, DC.

DEAR CHAIRMEN AND RANKING MEMBERS: I am writing to request your assistance in making a technical correction to the below projects in House Report 107-272, House Report 108-10, and House Report 108-401 so that the funds referenced may be made available to the City of Thomasville, Alabama. The awards in question are:

\$2,500,000 STAG award to the Southwest AL/Rural Municipal Water System in FY02; \$1,000,000 STAG award to the Southeast Alabama Regional Water Authority in FY02; \$450,000 STAG award to the Southwest Alabama Regional Water Authority in FY03; \$450,000 STAG award to the Southwest Alabama Regional Water Supply District in FY04.

I certify that neither I nor my immediate family has a pecuniary interest in the congressionally directed spending item(s) that I have requested for Fiscal Year 2010, consistent with the requirements of paragraph 9 of Rule XLIV of the Standing Rules of the Senate.

Very Truly Yours,

JEFF SESSIONS,  
United States Senator.

Hon. DIANE FEINSTEIN,  
Chairwoman, Subcommittee on Interior, Environment,  
and Related Agencies, Dirksen  
Senate Office Building, Washington, DC.

DEAR MADAM CHAIRMAN: I am writing to seek your assistance in a technical correction for the City of Thomasville in the Fiscal Year 2010 Interior, Environment, and Related Agencies Appropriations bill.

The City of Thomasville is constructing a water treatment facility. The project began under the auspices of the Southwest Regional Water Authority and was composed of the City of Thomasville and the City of Jackson. Therefore, funds were appropriated in 2002, 2003, and 2004 under this name.

2002—AL Regional Water Authority for AAL/Rural Municipal Water System, \$2.425M; 2002—Southeast Alabama Regional Water Authority, \$970,000; 2003—Southwest Alabama Regional Water Authority, \$433,700; 2004—Southwest Alabama Regional Water Supply District, \$433,900.

Since that time, the City of Jackson has withdrawn from the authority and the City

of Thomasville remains the only active partner. To meet eligibility qualifications of USDA/Rural Development and EPA to proceed with the development of the Thomasville water supply project, we were told that the earmarks from 2002–2004 would need to be amendment and replaced with the name “City of Thomasville.”

Finally, I certify that neither I nor my immediate family has a pecuniary interest, consistent with the requirements of Paragraph 9 of Rule XLIV of the Standing Rules of the Senate, in any congressionally directed spending item I requested that is contained in the Fiscal Year 2010 Interior, Environment, and Related Agencies Appropriations bill or accompanying report. I further certify that I have posted a description of the items requested on my official website, along with the accompanying justification.

I greatly appreciate your assistance in this matter. As always, please do not hesitate to contact me or Laura Friedel in my office should you or your staff have any questions.

Sincerely,

RICHARD SHELBY.

U.S. SENATE,

Washington, DC, September 17, 2009.

Hon. DIANNE FEINSTEIN  
Chairman, Subcommittee on Interior, Environment,  
and Related Agencies, Dirksen Senate  
Office Building, Washington, DC.

DEAR CHAIRMAN FEINSTEIN: I am writing to request your support for the enclosed amendment to the Fiscal Year 2010 Interior, Environment, and Related Agencies Appropriations bill.

Furthermore, I certify that neither I nor my immediate family has a pecuniary interest consistent with the requirements of Paragraph 9 of Rule XLIV of the Standing Rules of the Senate, in this or any other congressionally directed spending item I requested that is contained in the Fiscal Year 2010 Interior, Environment, and Related Agencies Appropriations bill or accompanying report. I further certify that I have posted a description of the amendment requested on my official website, along with the accompanying justification.

Thank you for your consideration of my request. As always, please do not hesitate to contact me or Laura Friedel in my office should you or your staff have any questions.

Sincerely,

RICHARD SHELBY.

Enclosure.

#### AMENDMENT

(Purpose: To provide for the use of certain funds for water system upgrades in Fayette County, Alabama)

On page 190, line 10, insert before the period at the end the following: “: *Provided further*, That, notwithstanding House Report 108-401, the amount of \$2,000,000 made available to the Tom Beville Reservoir Management Area Authority for construction of a drinking water reservoir in Fayette County, Alabama, shall be made available to Fayette County, Alabama, for water system upgrades”.

U.S. SENATE,

Washington, DC, September 16, 2009.

Hon. DANIEL K. INOUE,  
Committee on Appropriations, U.S. Senate,  
Washington, DC.

Hon. DIANNE FEINSTEIN,  
Subcommittee on Interior, Committee on Appropriations,  
U.S. Senate, Washington, DC.

Hon. THAD COCHRAN,  
Committee on Appropriations, U.S. Senate,  
Washington, DC.

Hon. LAMAR ALEXANDER,  
Subcommittee on Interior, Committee on Appropriations,  
U.S. Senate, Washington, DC.

DEAR CHAIRMEN AND RANKING MEMBERS, I am offering three amendments regarding congressionally directed spending items on the Senate floor to the Fiscal Year 2010 Interior, Environment, and Related Agencies Appropriations Bill.

Consistent with the requirements of paragraph 9 of Rule XLIV of the Standing Rules of the Senate, I certify that neither I nor my immediate family has a pecuniary interest in the congressionally directed spending items that I have requested for Fiscal Year 2010. I further certify that I have posted a description of the items requested on my official website, along with the accompanying justification.

*Project Title: Lake County, California, for wastewater system improvements*

Recipient: Lake County, CA  
Location: 230 A Main Street, Lakeport, CA 95453

Amount Requested: \$500,000

Lake County is upgrading the Kelseyville wastewater system to eliminate effluent and high nutrient pollution from entering Clear Lake. The facility, which is located on the south shore of Clear Lake, is under cease and desist orders to meet clean water standards, and requires expansion overflows into Clear Lake. This important project will improve sanitation and water quality for County residents by limiting sewage overflow.

*Project Title: Tahoe Basin Vessel Inspection Station*

Recipient: U.S. Fish and Wildlife Service  
Location: Lake Tahoe, California and Nevada

Amount Requested: \$800,000

The requested funding will be used for study, construction, staffing, and other expenses necessary to conduct water vessel inspection and decontamination at stations located away from boat and vessel ramps at Lake Tahoe and Echo Lake and Fallen Leaf Lake in California. The Tahoe Basin is under threat of Quagga and zebra mussel infestations because of its high-use by recreational boaters. An infestation could have devastating impacts on the regional economy, including recreation, tourism, property values, and other infrastructure equaling approximately \$22 million a year. If introduced, Quagga and zebra mussels could destroy the region's fisheries, alter the food web and ecosystem, jeopardize the public drinking supply, and ruin the shoreline and public access points. An infestation would also jeopardize more than \$1.43 billion that has already been invested in environmental restoration and water clarity improvements in Lake Tahoe, including \$424 million from the Federal government.

*Project Title: Inland Empire Alternative Water Supply*

Recipient: City of San Bernardino Municipal Water Department  
Location: 300 North “D” Street, San Bernardino, CA 92418

Amount Requested: Technical Correction

The Rialto-Colton Basin is seriously contaminated by perchlorate, and the cities and water districts in the area have had to abandon wells or install wellhead treatment

equipment to use their groundwater. Local water providers have found a temporary source of 20,000–30,000 acre-feet in the Bunker Hill Basin, within the incorporated limits of the City of San Bernardino, which will use this water source in the long-term. I secured \$500,000 in the Fiscal Year 2009 Omnibus Appropriations Act, but the San Bernardino Municipal Water Department has been unable to access these funds and this technical correction will clarify that the city is the recipient of this funding.

Thank you for your consideration of my requests. If you have any questions, please do not hesitate to contact me, or have your staff contact Ryan Hunt in my office.

Sincerely,

DIANNE FEINSTEIN,  
United States Senator.

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

Hon. DANIEL K. INOUE,  
Chairman, Senate Committee on Appropriations,  
The Capitol, Washington, DC.

Hon. DIANNE FEINSTEIN,  
Chairman, Subcommittee on Interior, Environ-  
ment, and Related Agencies, Senate Com-  
mittee on Appropriations, Washington, DC.

Hon. THAD COCHRAN,  
Ranking Member, Senate Committee on Appro-  
priations, The Capitol, Washington, DC.

Hon. LAMAR ALEXANDER,  
Ranking Member, Subcommittee on Interior, En-  
vironment, and Related Agencies, Senate  
Committee on Appropriations, Washington,  
DC.

DEAR CHAIRMAN INOUE AND RANKING MEM-  
BER COCHRAN, CHAIRMAN FEINSTEIN AND  
RANKING MEMBER ALEXANDER: As the Fiscal  
Year 2010 Interior, Environment, and Related  
Agencies Appropriations bill moves to the  
floor, I respectfully request your consider-  
ation of the technical corrections for  
projects from previous bills listed in this let-  
ter. These technical corrections are also list-  
ed on my website. I look forward to working  
with you through enactment of this bill.

I certify that neither I nor my immediate  
family has a pecuniary interest in any of the  
congressionally directed spending item(s)  
that I have requested, consistent with the re-  
quirements of paragraph 9 of Rule XLIV of  
the Standing Rules of the Senate. I further  
certify that I have posted a description of  
the items requested on my official website,  
along with the accompanying justification.

Line 96 of the list of STAG Infrastructure  
Grants/Congressional Priorities in the Ex-  
planatory Statement for Title II of Division  
F of Public Law 110-161 is revised to read  
“The City of Prescott for wastewater treat-  
ment plant construction project, \$170,800;  
and The City of Wichita for storm water  
technology pilot project, \$129,200.”

Line 108 of the list of STAG Infrastructure  
Grants/Congressional Priorities in the Ex-  
planatory Statement for Title II of Division  
E of Public Law 111-8 is revised to read “City  
of Manhattan for water mainline extension  
project, \$185,000.”

Line 111 of the list of STAG Infrastructure  
Grants/Congressional Priorities in the Ex-  
planatory Statement for Title II of Division  
E of Public Law 111-8 is revised to read “City  
of Manhattan for Konza water main exten-  
sion project, \$290,000.”

Sincerely,

SAM BROWNBACK,  
United States Senator.

Hon. DANIEL INOUE,  
Chairman, Senate Appropriations Committee.  
Hon. THAD COCHRAN,  
Vice Chairman, Senate Appropriations Com-  
mittee.

Hon. DIANNE FEINSTEIN,  
Chairman, Subcommittee on Interior, Environ-  
ment, and Related Agencies, Appropria-  
tions.

Hon. LAMAR ALEXANDER,  
Ranking Member, Subcommittee on Interior, En-  
vironment, and Related Agencies, Appro-  
priations.

DEAR CHAIRMAN INOUE, VICE CHAIRMAN  
COCHRAN, CHAIRMAN FEINSTEIN AND RANKING  
MEMBER ALEXANDER: I write to respectfully  
request a technical correction to my re-  
quests for congressionally directed appro-  
priations in the Fiscal Year 2010 Interior and  
Environment Appropriations Bill. I have at-  
tached the legislative language for my  
amendment, which would provide for the use  
of certain funds for certain water projects to  
be carried out by the cities of Prescott,  
Wichita, and Manhattan. I know that this  
year's budget situation is extremely tight,  
and I appreciate your consideration of these  
requests.

In addition, I certify that neither I nor my  
immediate family has a pecuniary interest  
in the congressionally directed spending  
items that I have requested, consistent with  
the requirements of paragraph 9 of rule XLIV  
of the Standing Rules of the Senate. I fur-  
ther certify that I have posted a description  
of the items requested on my official  
website, along with the accompanying jus-  
tification.

Again, I thank you for your consideration  
of these requests. Should you have an ques-  
tions, please do not hesitate to contact my  
Legislative Director Mike Seyfert.

With every best wish,

Sincerely,

PAT ROBERTS.

#### AMENDMENT

(Purpose: To provide for the use of certain  
funds for certain water projects to be car-  
ried out by the cities of Prescott, Wichita,  
and Manhattan)

On page 190, line 10, insert before the pe-  
riod at the end the following: “: *Provided fur-  
ther*, That, notwithstanding the joint explana-  
tory statement of the Committee on Appropria-  
tions of the House of Representatives accom-  
panying the Consolidated Appropriations  
Act, 2008 (Public Law 110-161; 121 Stat. 1844),  
from funds made available by that Act for  
the State and Tribal Assistance Grants pro-  
gram, \$170,800 shall be made available to the  
city of Prescott for a wastewater treatment  
plant construction project and \$129,200 shall  
be made available to the city of Wichita for  
a storm water technology pilot project: *Pro-  
vided further*, That, notwithstanding the  
joint explanatory statement of the Com-  
mittee on Appropriations of the House of  
Representatives accompanying the Omnibus  
Appropriations Act, 2009 (Public Law 111-8;  
123 Stat. 524), the amount of \$185,000 made  
available to the city of Manhattan for the  
sewer mainline extension project (as de-  
scribed in the table entitled ‘Congressionally  
Designated Spending’ contained in section  
430 of that joint explanatory statement)  
shall be made available to the city of Man-  
hattan for a water mainline extension  
project: *Provided further*, That, notwith-  
standing the joint explanatory statement of  
the Committee on Appropriations of the  
House of Representatives accompanying the  
Omnibus Appropriations Act, 2009 (Public  
Law 111-8; 123 Stat. 524), the amount of  
\$290,000 made available to the Riley County  
Board of Commissioners for the Konza Sewer  
Main Extension project (as described in the  
table entitled ‘Congressionally Designated

Spending’ contained in section 430 of that  
joint explanatory statement) shall be made  
available to the city of Manhattan for the  
Konza Water Main Extension project”.

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

Hon. ROBERT C. BYRD, Chairman,  
Hon. THAD COCHRAN, Ranking Member,  
Senate Committee on Appropriations, U.S. Cap-  
itol, Washington, DC.

Hon. DIANNE FEINSTEIN, Chairman,  
Hon. LAMAR ALEXANDER, Ranking Member,  
Senate Appropriations Subcommittee on Inte-  
rior, Environment, and Related Agencies,  
Dirksen Senate Office Building, Wash-  
ington, DC.

DEAR CHAIRMAN AND RANKING MEMBERS,  
Please find enclosed amendments I will offer  
to the FY 2010 Interior appropriations bill  
making technical changes to previously en-  
acted provisions. All changes are a result of  
requests by the U.S. Environmental Protec-  
tion Agency for clarification on the specific  
funds recipient, and none involve appropria-  
tion of additional funds.

I certify that neither I nor my immediate  
family has a pecuniary interest in these  
items, consistent with the requirements of  
paragraph 9 of Rule XLIV of the Standing  
Rules of the Senate.

Thank you in advance for your attention  
to this matter.

Sincerely,

CHRISTOPHER S. BOND.

#### AMENDMENT

(Purpose: To provide for the use of certain  
funds for Johnson County, Missouri for a  
drinking water and wastewater infrastruc-  
ture project)

On page 190, line 10, insert before the pe-  
riod at the end the following: *Providing fur-  
ther*, That, notwithstanding the joint explana-  
tory statement of the Committee on Appropria-  
tions of the House of Representatives accom-  
panying Public Law 111-8 (123 Stat. 524),  
the amount of \$1,300,000 made available to  
the City of Warrensburg, Missouri for a  
drinking water and wastewater infrastruc-  
ture project (as described in the table en-  
titled ‘Congressionally Designated Spending’  
contained in section 430 of that joint explana-  
tory statement) shall be made available to  
Johnson County, Missouri for that project”.

#### AMENDMENT

(Purpose: To provide for the use of certain  
funds for the Gravois Arm Sewer District  
for a wastewater infrastructure project)

On page 190, line 10, insert before the pe-  
riod at the end the following: “: *Providing  
further*, That, notwithstanding the joint explana-  
tory statement of the Committee on Appropria-  
tions of the House of Representatives accom-  
panying Public Law 111-8 (123  
Stat. 524), the amount of \$1,000,000 made  
available to the City of Gravois Mills for  
wastewater infrastructure (as described in  
the table entitled ‘Congressionally Desig-  
nated Spending’ contained in section 430 of  
that joint explanatory statement) shall be  
made available to the Gravois Arm Sewer  
District for that project”.

#### AMENDMENT

(Purpose: To provide for the use of certain  
funds for PWS #1 of McDonald County,  
Missouri for a wastewater infrastructure  
project)

On page 190, line 10, insert before the pe-  
riod at the end the following: “: *Providing  
further*, That, notwithstanding the joint explana-  
tory statement of the Committee on Appropria-  
tions of the House of Representatives accom-  
panying Public Law 111-8 (123  
Stat. 524), the amount of \$500,000 made avail-  
able to McDonald County, Missouri for a

wastewater infrastructure expansion project (as described in the table entitled 'Congressionally Designated Spending' contained in section 430 of that joint explanatory statement) shall be made available to PWSD #1 of McDonald County, Missouri for that project".

U.S. SENATE,

Washington, DC, September 17, 2009.

Hon. ROBERT C. BYRD, *Chairman*,  
Hon. THAD COCHRAN, *Ranking Member*,  
*Senate Committee on Appropriations, U.S. Capitol, Washington, DC.*

Hon. DIANNE FEINSTEIN, *Chairman*,  
Hon. LAMAR ALEXANDER, *Ranking Member*,  
*Senate Appropriations Subcommittee on Interior, Environment and Related Agencies, Dirksen Senate Office Building, Washington, DC.*

DEAR CHAIRMEN AND RANKING MEMBERS, Please find enclosed an amendment I will offer to the FY 2010 Interior appropriations bill making a technical change to a previously enacted provision. The change retains the drinking water infrastructure purpose of the project, does not increase the amount of funds appropriated and does not change the funding recipient.

I certify that neither I nor my immediate family has a pecuniary interest in this item, consistent with the requirements of paragraph 9 of Rule XLIV of the Standing Rules of the Senate.

Thank you in advance for your attention to this matter.

Sincerely,

CHRISTOPHER S. BOND.

#### AMENDMENT

(Purpose: To provide for the use of certain funds for the Pemiscot Consolidated Public Water Supply District #1 for a drinking water source protection infrastructure project)

On page 190, line 10, insert before the period at the end the following: "Providing further, That, notwithstanding the joint explanatory statement of the Committee on Appropriations of the House of Representatives accompanying Public Law 110-161 (121 Stat. 1844), the amount of \$150,000 made available to the City of Hayti, Pemiscot Consolidated Public Water Supply District #1 for a water storage tank (as described in the grant entitled 'STAG Infrastructure Grants/Congressional Priorities' on page 1264 of the joint explanatory statement) shall be made available to Pemiscot Consolidated Public Water Supply District #1 for a drinking water source protection infrastructure project".

U.S. SENATE,

Washington, DC, September 16, 2009.

Senator DIANNE FEINSTEIN,  
*Chairman, Subcommittee on Interior, Environment, and Related Agencies, Senate Committee on Appropriations, Washington, DC.*  
Senator LAMAR ALEXANDER,  
*Ranking Member, Subcommittee on Interior, Environment, and Related Agencies, Senate Committee on Appropriations, Washington, DC.*

DEAR CHAIRMAN FEINSTEIN AND RANKING MEMBER ALEXANDER: I am writing to request your assistance in making a technical correction to the Joint Explanatory Statement accompanying the Interior portion of the Omnibus Appropriations Act for Fiscal Year 2009. The Joint Explanatory Statement mistakenly directs \$400,000 from the Environmental Protection Agency's (EPA) State and Tribal Assistance Grants (STAG) account to the City of Lake Norden in South Dakota for wastewater infrastructure improvements. I request your assistance in correcting this description to reflect the fact that the Lake Norden project involves drinking water infrastructure.

I certify that neither I nor my immediate family has a pecuniary interest, consistent with the requirements of Paragraph 9 of Rule XLIV of the Standing Rules of the Senate, in any congressionally directed spending item that I requested from the Committee on Appropriations for Fiscal Year 2009.

Thank you for consideration of this request, and please contact me if you require any additional information.

Sincerely,

TIM JOHNSON,  
*United States Senator.*

U.S. SENATE,

Washington, DC, September 24, 2009.

Hon. DIANNE FEINSTEIN,  
*Chairman, Appropriations Subcommittee on the Interior, Environment and Related Agencies, Washington, DC.*

Hon. LAMAR ALEXANDER,  
*Ranking Member, Appropriations Subcommittee on The Interior, Environment and Related Agencies, Washington, DC.*

DEAR CHAIRMAN FEINSTEIN AND RANKING MEMBER ALEXANDER: I certify that neither I nor my immediate family has a pecuniary interest in any of the congressionally directed spending items that I have requested, including Senate Amendment # 2501, consistent with the requirements of paragraph 9 of Rule XLIV of the Standing Rules of the Senate for the FY 2010 Department of Interior, Environment, and Related Agencies Appropriations bill.

Sincerely,

JAMES E. RISCH,  
*United States Senator.*

Mrs. FEINSTEIN. Mr. President, all of these amendments have been cleared on both sides, and I believe we are in a position to voice vote the package.

Before voting, through, I would yield to my distinguished ranking member for any comments he may wish to make.

Mr. ALEXANDER. Mr. President, I concur with the remarks of the distinguished chairman of the subcommittee. I believe these are good amendments. We are able to clear them with the relevant members and their staffs. I support their adoption.

Beyond that, I would like to say to the chairman, I appreciate her willingness to accommodate the amendments and the positions of a large number of Republican Senators who have important issues that we will have a chance to vote on, and for including us in the process. I thank her for that, and we look forward to the rest of the day and concluding work on the bill.

Mrs. FEINSTEIN. I ask for a voice vote.

The PRESIDING OFFICER. The question is on agreeing to the managers' package of amendments en bloc.

The amendments were agreed to en bloc, as follows:

#### AMENDMENT NO. 2492

(Purpose: To provide funds for the Collaborative Forest Landscape Restoration Fund, with an offset)

On page 197, line 11, strike "\$2,586,637,000" and insert "\$2,576,637,000".

On page 198, line 10, strike "\$350,285,000" and insert "\$340,285,000".

On page 200, between lines 13 and 14, insert the following:

#### COLLABORATIVE FOREST LANDSCAPE RESTORATION FUND

For expenses authorized by section 4003(f) of the Omnibus Public Land Management

Act of 2009 (16 U.S.C. 7303(f)), \$10,000,000, to remain available until expended.

#### AMENDMENT NO. 2501

(Purpose: To provide for the use of certain funds for the Upper Snake/South Fork River Area of Critical Concern)

On page 122, line 11, insert before the period at the end the following: "Provided, That, notwithstanding the joint explanatory statement of the Committee on Appropriations of the House of Representatives accompanying Public Law 111-8 (123 Stat. 524), the amount of \$2,000,000 made available for the Henry's Lake ACEC in the State of Idaho (as described in the table entitled "Congressionally Designated Spending" contained in section 430 of that joint explanatory statement) shall be made available for the Upper Snake/South Fork River ACEC/SRMA in the State of Idaho".

#### AMENDMENT NO. 2505

(Purpose: To require the Administrator of the Environmental Protection Agency to conduct a study on black carbon emissions)

On page 192, between lines 6 and 7, insert the following:

#### GENERAL PROVISIONS, ENVIRONMENTAL PROTECTION AGENCY

##### BLACK CARBON

SEC. 201. (a) Not later than 18 months after the date of enactment of this Act, the Administrator, in consultation with other Federal agencies, may carry out and submit to Congress the results of a study to define black carbon, assess the impacts of black carbon on global and regional climate, and identify the most cost-effective ways to reduce black carbon emissions—

(1) to improve global and domestic public health; and

(2) to mitigate the climate impacts of black carbon.

(b) In carrying out the study, the Administrator shall—

(1) identify global and domestic black carbon sources, the quantities of emissions from those sources, and cost-effective mitigation technologies and strategies;

(2) evaluate the public health, climate, and economic impacts of black carbon;

(3) identify current and practicable future opportunities to provide financial, technical, and related assistance to reduce domestic and international black carbon emissions; and

(4) identify opportunities for future research and development to reduce black carbon emissions and protect public health in the United States and internationally.

(c) Of the amounts made available under this title under the heading "ENVIRONMENTAL PROGRAMS AND MANAGEMENT" for operations and administration, up to \$2,000,000 shall be—

(1) transferred to the account used to fund the Office of Air Quality Planning and Standards of the Environmental Protection Agency; and

(2) used by the Administrator to carry out this section.

#### AMENDMENT NO. 2509

(Purpose: To encourage the Administrator of the Environmental Protection Agency to reassess the cost-effectiveness of the buyout and relocation of residents of certain properties in Treece, Kansas)

At the end of title IV, add the following:

#### BUYOUT AND RELOCATION

SEC. 4 \_\_\_\_\_. (a) As soon as practicable after the date of enactment of this Act, the Administrator of the Environmental Protection Agency (referred to in this section as the "Administrator") is encouraged to consider

all appropriate criteria, including cost-effectiveness, relating to the buyout and relocation of residents of properties in Treece, Kansas, that are subject to risk relating to, and that may endanger the health of occupants as a result of risks posed by, chat (as defined in section 278.1(b) of title 40, Code of Federal Regulations (as in effect on the date of enactment of this Act)).

(b) For the purpose of the remedial action under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.) that includes permanent relocation of residents of Treece, Kansas, any such relocation shall not be subject to the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601 et seq.).

(c) Nothing in this section shall in any way affect, impede, or change the relocation or remediation activities pursuant to the Record of Decision Operable Unit 4, Chat Piles, Other Mine and Mill Waste, and Smelter Waste, Tar Creek Superfund Site, Ottawa County, Oklahoma (OKD980629844) issued by the Environmental Protection Agency Region 6 on February 20, 2008, or any other previous Record of Decision at the Tar Creek, Oklahoma, National Priority List Site, by any Federal agency or through any funding by any Federal agency.

#### AMENDMENT NO. 2518

(Purpose: To make technical corrections to certain State and tribal assistance grants)

On page 190, line 10, insert before the period at the end the following: “: *Provided further*, That, notwithstanding House Report 107–272, the amount of \$1,000,000 made available to the Southeast Alabama Regional Water Authority for a water facility project and the amount of \$2,500,000 made available to the Alabama Regional Water Authority for the Southwest Alabama Rural/Municipal Water System may, at the discretion of the Administrator, be made available to the city of Thomasville for those projects: *Provided further*, That, notwithstanding House Report 108–10, the amount of \$450,000 made available to the Southwest Alabama Regional Water Authority for water infrastructure improvements may, at the discretion of the Administrator, be made available to the city of Thomasville for that project: *Provided further*, That, notwithstanding House Report 108–401, the amount of \$450,000 made available to the Southwest Alabama Regional Water supply District for regional water supply distribution in Thomasville, Alabama, may, at the discretion of the Administrator, be made available to the city of Thomasville for that project: *Provided further*, That, notwithstanding House Report 108–401, the amount of \$2,000,000 made available to the Tom Bevill Reservoir Management Area Authority for construction of a drinking water reservoir in Fayette County, Alabama, may, at the discretion of the Administrator, be made available to Fayette County, Alabama, for water system upgrades: *Provided further*, That, notwithstanding the joint explanatory statement of the Committee on Appropriations of the House of Representatives accompanying Public Law 111–8 (123 Stat. 524), the amount of \$500,000 made available to the San Bernardino Municipal Water District for the Inland Empire alternative water supply project (as described in the table entitled ‘Congressionally Designated Spending’ contained in section 430 of that joint explanatory statement) may, at the discretion of the Administrator, be made available to the city of San Bernardino municipal water department for that project: *Provided further*, That, notwithstanding the joint explanatory statement of the Committee on Appropriations of the House of Representatives accompanying the Consolidated Appropriations Act, 2008

(Public Law 110–161; 121 Stat. 1844), from funds made available by that Act for the State and Tribal Assistance Grants program, \$170,800 may, at the discretion of the Administrator, be made available to the city of Prescott for a wastewater treatment plant construction project and \$129,200 may, at the discretion of the Administrator, be made available to the city of Wichita for a storm water technology pilot project: *Provided further*, That, notwithstanding the joint explanatory statement of the Committee on Appropriations of the House of Representatives accompanying the Omnibus Appropriations Act, 2009 (Public Law 111–8; 123 Stat. 524), the amount of \$185,000 made available to the city of Manhattan for the sewer mainline extension project (as described in the table entitled ‘Congressionally Designated Spending’ contained in section 430 of that joint explanatory statement) may, at the discretion of the Administrator, be made available to the city of Manhattan for a water mainline extension project: *Provided further*, That, notwithstanding the joint explanatory statement of the Committee on Appropriations of the House of Representatives accompanying the Omnibus Appropriations Act, 2009 (Public Law 111–8; 123 Stat. 524), the amount of \$290,000 made available to the Riley County Board of Commissioners for the Konza Sewer Main Extension project (as described in the table entitled ‘Congressionally Designated Spending’ contained in section 430 of that joint explanatory statement) may, at the discretion of the Administrator, be made available to the city of Manhattan for the Konza Water Main Extension project: *Provided further*, That, notwithstanding the joint explanatory statement of the Committee on Appropriations of the House of Representatives accompanying Public Law 111–8 (123 Stat. 524), the amount of \$1,300,000 made available to the City of Warrensburg, Missouri for a drinking water and wastewater infrastructure project (as described in the table entitled ‘Congressionally Designated Spending’ contained in section 430 of that joint explanatory statement) may, at the discretion of the Administrator, be made available to Johnson County, Missouri for that project: *Provided further*, That, notwithstanding the joint explanatory statement of the Committee on Appropriations of the House of Representatives accompanying Public Law 111–8 (123 Stat. 524), the amount of \$1,000,000 made available to the City of Gravois Mills for wastewater infrastructure (as described in the table entitled ‘Congressionally Designated Spending’ contained in section 430 of that joint explanatory statement) may, at the discretion of the Administrator, be made available to the Gravois Arm Sewer District for that project: *Provided further*, That, notwithstanding the joint explanatory statement of the Committee on Appropriations of the House of Representatives accompanying Public Law 111–8 (123 Stat. 524), the amount of \$500,000 made available to McDonald County, Missouri for a wastewater infrastructure expansion project (as described in the table entitled ‘Congressionally Designated Spending’ contained in section 430 of that joint explanatory statement) may, at the discretion of the Administrator, be made available to PWS #1 of McDonald County, Missouri for that project: *Provided further*, That, notwithstanding the joint explanatory statement of the Committee on Appropriations of the House of Representatives accompanying Public Law 110–161 (121 Stat. 1844), the amount of \$150,000 made available to the City of Hayti, Pemiscot Consolidated Public Water Supply District 1 for a Water Storage Tank (as described in the section entitled ‘STAG Infrastructure Grants/Congressional Priorities’ on page 1264 of the joint explanatory statement) may, at

the discretion of the Administrator, be made available to Pemiscot Consolidated Public Water Supply District 1 for a drinking water source protection infrastructure project: *Provided further*, That, notwithstanding the joint explanatory statement of the Committee on Appropriations of the House of Representatives accompanying Public Law 111–8 (123 Stat. 524), the amount of \$400,000 made available to the City of Lake Norden, South Dakota, for wastewater infrastructure improvements (as described in the table entitled ‘Congressionally Designated Spending’ contained in section 430 of that joint explanatory statement) may, at the discretion of the Administrator, be made available to the City of Lake Norden, South Dakota, for drinking water infrastructure improvements”.

#### AMENDMENT NO. 2519

(Purpose: To extend a special use permit for Drake's Estero at Point Reyes National Seashore, California)

On page 179, strike line 7 and all that follows through page 180, line 9, and insert the following:

SEC. 120. Prior to the expiration on November 30, 2012 of the Drake's Bay Oyster Company's Reservation of Use and Occupancy and associated special use permit (“existing authorization”) within Drake's Estero at Point Reyes National Seashore, notwithstanding any other provision of law, the Secretary of the Interior is authorized to issue a special use permit with the same terms and conditions as the existing authorization, except as provided herein, for a period of 10 years from November 30, 2012: *Provided*, That such extended authorization is subject to annual payments to the United States based on the fair market value of the use of the Federal property for the duration of such renewal. The Secretary shall take into consideration recommendations of the National Academy of Sciences Report pertaining to shellfish mariculture in Point Reyes National Seashore before modifying any terms and conditions of the extended authorization.

#### AMENDMENT NO. 2522

(Purpose: To clarify the authority of the Secretary of Agriculture regarding the coordination of biobased product activities)

On page 240, between lines 13 and 14, insert the following:

SEC. 4. Section 404(c) of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7624(c)) is amended—

(1) in paragraph (1), by striking “Agricultural Research Service” and inserting “Department of Agriculture”; and

(2) by adding at the end the following:

“(3) AUTHORITY OF SECRETARY.—To carry out a cooperative agreement with a private entity under paragraph (1), the Secretary may rent to the private entity equipment, the title of which is held by the Federal Government.”.

#### AMENDMENT NO. 2534, AS MODIFIED

At the appropriate place, insert the following:

SEC. . (a) It is the sense of the Senate that the Senate—

(1) Supports the National Vehicle Mercury Switch Recovery Program as an effective way to reduce mercury pollution from electric arc furnaces used by the steel industry to melt scrap metal from old vehicles; and

(2) Urges the founders of the Program to secure private sector financial support so that the successful efforts of the Program to reduce mercury pollution may continue.

#### AMENDMENT NO. 2491, AS MODIFIED

On page 240, between lines 13 and 14, insert the following:

**SEC. 423. NATIONAL FOREST FOUNDATION.**

Section 403(a) of the National Forest Foundation Act (16 U.S.C. 583j-1(a)) is amended, in the first sentence, by striking “fifteen Directors” and inserting “not more than 30 Directors”.

**AMENDMENT NO. 2495**

(Purpose: To support the Pest and Disease Revolving Loan Fund)

On page 193, line 13, insert before “*Provided*” the following: “and of which \$2,000,000 may be made available to the Pest and Disease Revolving Loan Fund established by section 10205(b) of the Food, Conservation, and Energy Act of 2008 (16 U.S.C. 2104a(b))”.

**AMENDMENT NO. 2507**

(Purpose: To limit the increase in cabin user fees, with an offset)

On page 193, line 9, strike “\$1,556,329,000” and insert “\$1,552,429,000”.

On page 193, line 20, insert before the period at the end the following: “: *Provided further*, that \$282,617,000 shall be made available for recreation, heritage, and wilderness”.

On page 240, between lines 13 and 14, insert the following:

**SEC. 423. CABIN USER FEES.**

Notwithstanding any other provision of law, none of the funds made available by this Act shall be used to increase the amount of cabin user fees under section 608 of the Cabin User Fee Fairness Act of 2000 (16 U.S.C. 6207) to an amount beyond the amount levied on December 31, 2009.

**AMENDMENT NO. 2493, AS MODIFIED**

On page 159, line 25, strike “\$979,637,000” and insert “\$904,637,000”.

On page 197, line 11, strike “\$2,576,637,000” and insert “\$1,817,637,000”.

On page 240, between lines 13 and 14, insert the following:

**SEC. 423. FLAME FUND FOR EMERGENCY WILDFIRE SUPPRESSION ACTIVITIES.**

(a) DEFINITIONS.—In this section:

(1) **FEDERAL LAND.**—The term “Federal land” means—

(A) public land, as defined in section 103 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1702);

(B) units of the National Park System;

(C) refuges of the National Wildlife Refuge System;

(D) land held in trust by the United States for the benefit of Indian tribes or members of an Indian tribe; and

(E) land in the National Forest System, as defined in section 11(a) of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1609(a)).

(2) **FLAME FUND.**—The term “Flame Fund” means the Federal Land Assistance, Management, and Enhancement Fund established by subsection (b).

(3) **SECRETARIES.**—The term “Secretaries” means the Secretary of the Interior and the Secretary of Agriculture, acting jointly.

(4) **SECRETARY CONCERNED.**—The term “Secretary concerned” means—

(A) the Secretary of the Interior, with respect to Federal land described in subparagraphs (A), (B), (C), and (D) of paragraph (1); and

(B) the Secretary of Agriculture, with respect to National Forest System land.

(b) **ESTABLISHMENT OF FLAME FUND.**—There is established in the Treasury of the United States a fund to be known as the “Federal Land Assistance, Management, and Enhancement Fund”, consisting of—

(1) such amounts as are appropriated to the Flame Fund; and

(2) such amounts as are transferred to the Flame Fund under subsection (d).

(c) **FUNDING.**—

(1) **AUTHORIZATION OF APPROPRIATIONS.**—

(A) **IN GENERAL.**—There are authorized to be appropriated to the Flame Fund such amounts as are necessary to carry out this section.

(B) **CONGRESSIONAL INTENT.**—It is the intent of Congress that the amounts appropriated to the Flame Fund for each fiscal year should be not less than the combined average amount expended by each Secretary concerned for emergency wildfire suppression activities over the 5 fiscal years preceding the fiscal year for which amounts are appropriated.

(C) **AVAILABILITY.**—Amounts appropriated to the Flame Fund shall remain available until expended.

(2) **APPROPRIATION.**—There is appropriated to the Flame Fund, out of funds of the Treasury not otherwise appropriated, \$834,000,000.

(3) **SENSE OF CONGRESS ON DESIGNATION OF FLAME FUND APPROPRIATIONS AS EMERGENCY REQUIREMENT.**—It is the sense of Congress that further amounts appropriated to the Flame Fund should be designated as amounts necessary to meet emergency needs.

(4) **NOTICE OF INSUFFICIENT FUNDS.**—The Secretaries shall notify the congressional committees described in subsection (h)(2) if the Secretaries estimate that only 60 days worth of funding remains in the Flame Fund.

(d) **TRANSFER OF EXCESS WILDFIRE SUPPRESSION AMOUNTS INTO FLAME FUND.**—At the end of each fiscal year, the Secretary concerned shall transfer to the Flame Fund amounts that—

(1) are appropriated to the Secretary concerned for wildfire suppression activities for the fiscal year; but

(2) are not obligated for wildfire suppression activities before the end of the fiscal year.

(e) **USE OF FLAME FUND.**—

(1) **IN GENERAL.**—Subject to paragraphs (2), (3), and (4), amounts in the Flame Fund shall be available to the Secretary concerned to pay the costs of emergency wildfire suppression activities that are separate from amounts annually appropriated to the Secretary concerned for routine wildfire suppression activities.

(2) **DECLARATION REQUIRED.**—

(A) **IN GENERAL.**—Amounts in the Flame Fund shall be made available to the Secretary concerned only after the Secretaries issue a declaration that a wildfire suppression activity is eligible for funding from the Flame Fund.

(B) **DECLARATION CRITERIA.**—A declaration by the Secretaries under subparagraph (A) may be issued only if—

(i) in the case of an individual wildfire incident—

(I) the fire covers 300 or more acres; and

(II) the Secretaries determine that the fire has required an emergency Federal response based on the significant complexity, severity, or threat posed by the fire to human life, property, or resources; or

(ii) the cumulative costs of wildfire suppression activities for the Secretary concerned have exceeded the amounts appropriated to the Secretary concerned for those activities (not including funds deposited in the Flame Fund).

(3) **TRANSFER OF AMOUNTS TO SECRETARY CONCERNED.**—After issuance of a declaration under paragraph (2) and on request of the Secretary concerned, the Secretary of the Treasury shall transfer from the Flame Fund to the Secretary concerned such amounts as the Secretaries determine are necessary for wildfire suppression activities associated with the declaration.

(4) **STATE, PRIVATE, AND TRIBAL LAND.**—Use of the Flame Fund for emergency wildfire suppression activities on State land, private land, and tribal land shall be consistent with

any existing agreements in which the Secretary concerned has agreed to assume responsibility for wildfire suppression activities on the land.

(f) **TREATMENT OF ANTICIPATED AND PREDICTED ACTIVITIES.**—

(1) **IN GENERAL.**—Subject to subsection (e)(2)(B)(ii), the Secretary concerned shall continue to fund routine wildfire suppression activities within the appropriate agency budget for each fiscal year.

(2) **CONGRESSIONAL INTENT.**—It is the intent of Congress that funding made available through the Flame Fund be used—

(A) to supplement the funding otherwise appropriated to the Secretary concerned; and

(B) only for purposes in, and instances consistent with, this section.

(g) **PROHIBITION ON OTHER TRANSFERS.**—Any amounts in the Flame Fund and any amounts appropriated for the purpose of wildfire suppression on Federal land shall be obligated before the Secretary concerned may transfer funds from non-fire accounts for wildfire suppression.

(h) **ACCOUNTING AND REPORTS.**—

(1) **ACCOUNTING AND REPORTING SYSTEM.**—The Secretaries shall establish an accounting and reporting system for the Flame Fund that is compatible with existing National Fire Plan reporting procedures.

(2) **ANNUAL REPORT.**—Annually, the Secretaries shall submit to the Committee on Natural Resources, the Committee on Agriculture, and the Committee on Appropriations of the House of Representatives and the Committee on Energy and Natural Resources, the Committee on Indian Affairs, and the Committee on Appropriations of the Senate and make available to the public a report that—

(A) describes the use of amounts from the Flame Fund; and

(B) includes any recommendations that the Secretaries may have to improve the administrative control and oversight of the Flame Fund.

(3) **ESTIMATES OF WILDFIRE SUPPRESSION COSTS TO IMPROVE BUDGETING AND FUNDING.**—

(A) **IN GENERAL.**—Consistent with the schedule provided in subparagraph (C), the Secretaries shall submit to the committees described in paragraph (2) an estimate of anticipated wildfire suppression costs for the applicable fiscal year and the subsequent fiscal year.

(B) **PEER REVIEW.**—The methodology for developing the estimates under subparagraph (A) shall be subject to periodic peer review to ensure compliance with subparagraph (D).

(C) **SCHEDULE.**—The Secretaries shall submit an estimate under subparagraph (A) during—

(i) the first week of February of each year;

(ii) the first week of April of each year;

(iii) the first week of July of each year; and

(iv) if a bill making appropriations for the Department of the Interior and the Forest Service for the following fiscal year has not been enacted by September 1, the first week of September of each year.

(D) **REQUIREMENTS.**—An estimate of anticipated wildfire suppression costs shall be developed using the best available—

(i) climate, weather, and other relevant data; and

(ii) models and other analytic tools.

(i) **TERMINATION OF AUTHORITY.**—The authority under this section shall terminate at the end of the third fiscal year in which no appropriations to or withdrawals from the Flame Fund have been made for a period of 3 consecutive fiscal years.

**SEC. 424. COHESIVE WILDFIRE MANAGEMENT STRATEGY.**

(a) **STRATEGY REQUIRED.**—Not later than 1 year after the date of enactment of this Act,



the Secretary of the Interior and the Secretary of Agriculture, acting jointly, shall submit to Congress a report that contains a cohesive wildfire management strategy, consistent with the recommendations described in recent reports of the Government Accountability Office regarding management strategies.

(b) ELEMENTS OF STRATEGY.—The strategy required by subsection (a) shall provide for—

(1) the identification of the most cost-effective means for allocating fire management budget resources;

(2) the reinvestment in non-fire programs by the Secretary of the Interior and the Secretary of Agriculture;

(3) employing the appropriate management response to wildfires;

(4) assessing the level of risk to communities;

(5) the allocation of hazardous fuels reduction funds based on the priority of hazardous fuels reduction projects;

(6) assessing the impacts of climate change on the frequency and severity of wildfire; and

(7) studying the effects of invasive species on wildfire risk.

(c) REVISION.—At least once during each 5-year period beginning on the date of the submission of the cohesive wildfire management strategy under subsection (a), the Secretaries shall revise the strategy submitted under that subsection to address any changes affecting the strategy, including changes with respect to landscape, vegetation, climate, and weather.

AMENDMENTS NOS. 2456 AND 2522 WITHDRAWN

The PRESIDING OFFICER. Under the previous order, amendments Nos. 2456 and 2522 are withdrawn.

Mrs. FEINSTEIN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

AMENDMENT NO. 2522

The PRESIDING OFFICER. For the clarification of the Senate, amendment 2522 was not withdrawn. It was part of the managers' package.

The majority leader.

HEALTH CARE DEBATE

Mr. REID. Mr. President, this past April, as the health care debate was getting underway, I sent my Republican counterpart, Senator McCONNELL, a letter outlining our priorities for the debate. I wrote, of course, that Democrats are committed to lowering health care costs, expanding access, and improving the quality of care. I said that we look forward to a dialog about how to prevent diseases, reduce health disparities, and encourage both early detection and effective treatments that save lives. But in that letter of 5 months ago, I also said that in order to help struggling Americans, we cannot drown in distractions and distortions. I made clear that bipartisanship depended on Republicans demonstrating a sincere interest in legislating. It depends on their joining us to offer concrete and constructive proposals, even

if we disagree on the content of those ideas. It depends on us working together in our common interests rather than against each other and against the interests of the American people.

I stand by that assessment as strongly today as I did this spring. It is painfully clear to everyone who has seen this debate's disturbing turns and dishonest tactics that more than ever, we now need people willing to work together in good faith. If we have learned anything from the recent rhetoric, both in our respective States and here in the Senate, it is that we need honest debate. It is regrettable that we have seen far too little of that lately.

Today, I want to talk about one area of the debate that has seen particularly reckless rumors and scare tactics—what health insurance reform will mean to seniors.

A Republican Congresswoman recently claimed that our plan to improve health care would "put seniors in a position of being put to death by their government." That was wrong when it was said, and it is wrong now. A Republican Senator made a similar statement to mislead his constituents. He actually accused Democrats of proposing a plan that would kill Americans. Others pretend our reforms will cut benefits when, in fact, the only thing they cut is waste. Is this any way to have an honest debate? I don't think so. Is this what our constituents sent us here to do? I don't think so. Some of our friends on the other side may not want to let reality get in the way of a good sound bite, but I think it is crucial that we get the facts straight.

The fact is, ever since a Democratic Congress and Democratic President created Medicare, Democrats have spent the past 40 years protecting seniors.

I know a little bit about Medicare. My first elective job in Nevada was on a countywide hospital board. It was then called the Southern Nevada Memorial Hospital. It is now called the University Medical Center. When I started my job, 40 percent of seniors who came into that hospital had no insurance. We had an aggressive plan to go after their fathers, mothers, brothers, sisters, whoever signed for them. That is no longer the case with Medicare. Virtually every senior who comes into that institution and all institutions has insurance to cover their hospitalizations. It is called Medicare. By the time I left that job, Medicare had come into existence.

The fact is, ever since Republicans opposed the creation of Medicare, they have spent the past 40 years on the wrong side of history when it comes to helping seniors. They were wrong then, and they are wrong now.

I don't carry much in my wallet. I have three credit cards. I have a few dollars. One thing I always carry with me is something I think is pretty important. I have carried this for years. You can see how wilted it is. I have done it for many years because I want

to be able to quote accurately what I am talking about here. Republicans have hated Medicare from the very beginning, and they still hate it.

I was there fighting the fight, one of twelve voting against Medicare because we knew it wouldn't work in 1965.

Robert Dole, former leader of the Republicans in the Senate, candidate for President on the Republican ticket, that is what he said.

Now, we didn't get rid of it in round one because we don't think it is politically smart, but we believe Medicare is going to wither on the vine.

Newt Gingrich. I am not making this up. This is what they said.

Dick Armey, majority leader a few years ago in the House of Representatives:

Medicare has no place in a free world.

When I say that since Democrats created Medicare, we have spent 40 years protecting America's seniors, the fact is, ever since the Republicans opposed the creation of Medicare, they have spent the past 40 years on the wrong side of history when it comes to helping seniors. They were wrong then. They are wrong now. They conveniently ignore facts such as that in 1965, only half the Nation's seniors had health insurance. Today, virtually every senior has health insurance. It is called Medicare. Is it a perfect program? Of course, it is not. But it is a pretty good program. Seniors' life expectancy has gone up and the number of seniors living in poverty has gone down. Those on Medicare universally like it.

People complain about this program. Do you know what the overhead is on this program? It is less than 3 percent. It is one of the most effective programs in the history of the country. But that hasn't stopped Republicans from bragging about trying to kill Medicare. It hasn't stopped them from looking out for insurance companies instead of their constituents. And in the past 10 years, it hasn't stopped Republicans from voting against protecting and strengthening Medicare 59 times. Look at this. These are the votes by year. Just last year, these are the votes. I hope this year's reform will not be No. 60 because this bill will also protect and strengthen Medicare.

There will be an opportunity for Democrats and Republicans to offer amendments to whatever bill comes out of the Finance Committee and out of the HELP Committee, and they will be melded together. What our legislation does is lower the cost of medicine. It provides a free yearly checkup, makes preventive care for seniors free. It will give doctors who treat seniors a raise, and it will cut waste from Medicare. For seniors, health insurance reform will mean all of that.

Rather than having a serious and real debate about a serious and real crisis, some would prefer to deploy tactics to frighten the American people. But what really frightens them is that under the status quo, they live just one



illness, one accident, one pink slip away from losing everything they have.

This is no time to let partisanship get the best of us. This is no time to obsess over rumors or oppose ideas simply because they were proposed by people who sit on a different side of this Chamber. This is no time to instill unfounded fears or incite hope that our Nation's leaders fail.

This is the time to get serious about making it easy for American citizens to afford and live healthy lives. When it comes to Republicans' attacks on Medicare, the messenger has no credibility and the message is nothing more than an excuse. At the end of the day, the other side's insistence on spreading fear above all else is what will truly hurt seniors and all Americans.

Our opponents' claims this time around are as disingenuous as they have been and phony at worst—disingenuous because they have a long track record of standing in the way of giving America's seniors what they need, phony because they completely and willfully misrepresent what the bills we are considering will actually do for seniors. Our bill will lower the cost of medicine, provide a free yearly checkup, make preventive care free, give doctors who treat seniors a raise, and cut waste from Medicare. That is what it is all about.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. I thank the majority leader, Mr. President, because a lot has been said in this health care debate that needs to be clarified. I have been on the floor—how many times—when the Republican leadership has come to the floor and told us that if we are not careful in health care reform, we will end up with a government-run health insurance program. They have warned us: Be careful. Government run health insurance, it is socialism, too much government. I am waiting for the first Republican Senator to come to the floor and say: So we should abolish Medicare; we ought to get rid of Medicaid, which is for the poorest people, and we ought to get rid of veterans health care, another government program, and the Children's Health Insurance Program that makes health insurance affordable all across the United States. If one follows the Republican logic, they are all government health insurance programs.

Traditionally, the Republican Party has not embraced the concept. Let's be honest about it. They have a different view. They would like government to step aside and let the market work its will. Have you noticed what the market is working? The market is working its will in health insurance, and we are seeing private, for-profit health insurance companies making a fortune, denying one out of five people the coverage they thought they had, raising their costs every single year. That is the reality of the private market.

When it comes to Medicare, a program created under President Lyndon

Johnson more than 40 years ago, 45 million Americans have the peace of mind to know they have basic health insurance protection. Do you know who these people are? They are folks who worked their whole lives, paid money out of their paychecks to be part of Medicare so that they would have not only the peace of mind but quality health care in their retirement years. It is not just the peace of mind of having access to good health care, it is the peace of mind of knowing that all the money you worked for your entire life to save, the money you wanted to live on in comfort after retirement would not disappear because of medical bills. Medicare gives people peace of mind and protects their assets so they can live independently, comfortably, in the kind of style most of us dream of for all Americans who have worked so hard for many years.

We hear the other side tell us how bad those government health insurance programs are. The administrative costs of Medicare are dramatically lower than the cost of private health insurance. It is obvious. Medicare is a not-for-profit entity. It is managed at a cost of about 3 percent. Do you know what happens with health insurance companies? They load up with costs for profit. They load up with costs for advertising and marketing.

They load up with people who get on the telephone to say: No—no to your doctor. You know what I am talking about. When the doctor says: I think the best thing for you is this procedure, and you are under private health insurance, that last stop in that medical decision is not at the hospital or in the doctor's office; the last stop is a long-distance phone call to some clerk sitting out in Omaha, NE, with a manual in front of him or her, and the first words at the top of the page say: Say no. Raise questions. Tell them you will get back to them.

Am I making this up? I am not. I have example after example from my home State of Illinois, from people I have met during the course of my service in the Senate and the House, and people I met this last summer who will verify that.

So when the Republicans come to the floor to criticize us and say they are the guardians of Medicare, it does not square with their traditional position of opposing Medicare, with their efforts to cut Medicare over the years and the fact that when we talk about Medicare and its future, they are nowhere to be found.

This is a critical health care debate we are facing. I admit the President has stuck his neck out a mile. It takes some courage to do it because he knows it is a controversial issue. President Obama said to us in a joint session of Congress: If this were easy somebody would have done it a long time ago. But he is going to take this on, and he said to us publicly and privately he will spend every penny of political capital he has to get it done. It

means that much to him and to our Nation.

So for seniors this is a critical debate. A lot of seniors are being misled by things that are downright awful. I saw the videotape. This Republican Congresswoman went to the floor of the U.S. House of Representatives and said that: Oh, these Democrats want to create death panels. Sarah Palin said that those death panels would take the life of one of her children or something. That is an outrageous statement and not true.

Do you know what they are talking about? They are talking about an amendment offered by a Georgia Senator—a Republican Georgia Senator—JOHNNY ISAKSON—a reasonable amendment. Do you know what it said? Under our health care reform, people should be allowed to go to a doctor and, in privacy and in confidence, sit down and say the words that need to be said—words like: Listen, I don't want to be hooked up to some machine. When the time comes, I want to go peacefully. I don't want extraordinary things done for me. That is my wish and, doctor, I want you to know that wish. I am going to tell my family, but I want you to know.

Is that an important conversation? Any one of us—and so many of us fit in this category, who have been through one of those situations with a parent, a member of our family, or someone we love—wants to know what they want.

So Senator ISAKSON proposed that amendment. It was a thoughtful, reasonable amendment that we brought into this debate. What happened to it? You know what happened: death panels. Oh, they are going in there. They are going to mandate that they pull the plug on Granny. That is sad. It is unfortunate. It shows a lack of maturity and judgment by those who are making those charges. And we have heard them from the halls of Congress and outside. What we are talking about here is health care reform this country needs but health care reform that will actually benefit Medicare beneficiaries.

As shown on this chart, this is basically what we hope to do for seniors when it comes to health insurance reform.

First, we want to lower the cost of medicine. Ask seniors about Medicare's prescription drug plan, and they will tell you: Well, it is good, but if you have a lot of drugs and they are very expensive—somehow or other Congress dreamed up something called the "doughnut hole." What it basically means is, for some period of time each year, those seniors who need drug protection the most are on their own. They have to start spending out of their pocket. We close the doughnut hole, lowering the cost of medicine for seniors under Medicare.

We provide for that free yearly checkup that can make all the difference in the world. A senior who gets to go in and check up with the doctor regularly is one who is likely going to

spot something before it becomes serious where it can be treated successfully. That makes good sense. Seniors across America will appreciate that. That is part of our plan.

Preventive care is free. We are talking about mammograms, colonoscopies, blood tests for prostate cancer. These things will be free under the health care reform we are talking about for senior citizens and for virtually everyone in America.

Giving doctors who treat seniors compensation for the care they are providing. We want doctors who are professional enough to include Medicare patients in their practice to be compensated fairly.

Finally, cut waste from Medicare. I want to say a word about this. I got on this "Meet The Press" program. I get on there once in a while on Sunday mornings. I think they put me on because I am free. But for whatever reason, I was on there, and I was in debate with Newt Gingrich. You know Newt Gingrich, former Republican Speaker of the House of Representatives, the spokesman for many parts of his party today.

I said: It bothers me when people say health care reform is going to cut Medicare. Let me tell you what we have in mind. A few years ago, the private insurance companies came to us and said: We can do a better job at a lower cost in providing Medicare benefits. Well, some people were skeptical.

They said: Let us prove it. The government is doing this all wrong. Let the private health insurance companies do it. We will show you, and we will call it Medicare Advantage.

Off they went providing these Medicare Advantage programs that were to match the benefits under Medicare. The jury came in a few years later, and, do you know what, many of these plans cost up to 14 percent more than Medicare. They did not save us money. It ended up these private health insurance companies not only did not make their point about being cheaper, they cost the taxpayers more money than we should have paid out. They did not provide additional benefits for Medicare recipients that they needed.

They want us to continue to subsidize these private health insurance companies that have failed in their offer to beat Medicare at its own game. So when we say, and the President says, we want to cut the subsidy to health insurance companies under Medicare, that is what he and we are talking about. If they did not keep their end of the bargain to provide medical care at the same cost or less cost than Medicare, why should we continue to subsidize them? I do not think we should.

I said that on the show, and the next person to speak was former Speaker Newt Gingrich, who said: Well, that proves our point. DUBIN wants to cut Medicare.

Well, fortunately for me, Dr. Howard Dean, the former Governor of Vermont,

was on the panel, and he corrected him. He said: Mr. Gingrich, he didn't say cut Medicare. He said cut the subsidy to the health insurance companies that are taking advantage of Medicare to profiteer, take that extra money and provide the kind of care we need for seniors, and make sure, in the process, we save the Medicare Program.

Untouched, our Medicare Program is going to suffer from the same thing everybody else suffers from in America: the escalating cost of health care. We have to do something. We have to keep our promise, not only to the seniors today, but to the many who will come after them, that Medicare will be there when they need it, that when they reach the age of 65, they will have the peace of mind of knowing they can still go to their doctor, still go to their hospital, get quality care, and not have a catastrophic illness that wipes out their savings.

This is a debate which is worth getting into. I hope those who follow it understand this party on this side of the aisle fought to create Medicare, fought to protect Medicare, and now is fighting to save Medicare. Do not let those who come before us, misleading us about what we are trying to achieve here, mislead the American people.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Mr. President, I am not so sure, given what is happening in the country these days, it would be very easy to enact the Medicare Program, had we not done so previously. The Medicare Program was enacted at a time when one-half of the senior citizens in this country had no health care—none. That is not surprising because the fact is, insurance companies do not go running after elderly people to say: Can we provide health insurance coverage to you? We know you are in your seventies or eighties, and we know you are probably going to need coverage for various things in the years ahead. We would like to provide that coverage.

In the mid-1960s, this country and the Congress said: People in their elderly years should not have to lay their head on their pillow at night and wonder whether tomorrow might be the day when they become ill, have a disease, have an accident, and go to a hospital with no health insurance to cover their needs.

This Congress did something very important, and, as is usually the case, when it created Medicare, there were plenty of people saying: Don't do it. It won't work. It is socialism. It shouldn't happen. But it did happen.

There is a health care bill being written in the Finance Committee now. I am not part of a gang of two or a gang of six or a gang of eight. I am part of a gang of 99 Senators, as of today, who will consider the bill they come up with. I do not know what it will look like, and I wish to see all of it before I make a judgment about its merits, but

I will say this: Even as it is being written, we hear of efforts to cold call into homes of senior citizens to tell them that what is happening is an attempt to injure and take away services from Medicare for senior citizens. It is not true. It is false.

It is hard to make the case, it seems to me, but some are trying, that if you try to reduce the cost of Medicare by getting rid of waste and fraud and abuse, somehow that results in less health care services for senior citizens, yet that is exactly what is being represented by some.

I have watched very carefully and been very concerned about the issue of waste and fraud and abuse in Medicare.

There should be aggressive oversight, with respect to those who are providing Medicare benefits to senior citizens. There is too much fraud. My hope is—and my understanding from what is being written with respect to preventing fraud—it is going to be a new day. If you want to sign up as a provider and get reimbursement from Medicare for helping senior citizens, you better be providing the service. All too often that has not been the case.

So when we decide we are going to try to cut waste and fraud and abuse in a very serious and relentless and aggressive way, we have people who say: Aha, what they are going to do will harm senior citizens. It is not going to harm senior citizens in the delivery of health care to those who are entitled to it if we take on the waste and the fraud and the abuse and start putting the crooks in jail. That is not going to hurt senior citizens. That is going to help America's elderly.

Let me describe what I am talking about. In 2007, the Department of Justice randomly visited 1,600 durable medical equipment suppliers that bill Medicare for services. They found that one-third of the businesses did not exist. Think of that. They randomly visited 1,600 durable medical equipment suppliers that provide services to beneficiaries, we are told—they are billing the government for it—and they found out that one-third of them did not exist. They were mailboxes to collect fraudulent checks. They billed Medicare, combined, \$237 million in 2007.

Putting those people in jail and stopping that kind of fraud does not injure Medicare. It strengthens it. It does not hurt senior citizens.

A man named Mr. Alcides Garcia was sentenced to 8 years in prison. Here is a picture of him, so we can give him a little credit for what he did. He was sentenced to 8 years in prison after his medical equipment company made millions in false Medicare claims.

Mr. Thomas Fiore, as shown in this picture, was indicted with 10 others on racketeering charges in south Florida for identity theft and Medicare fraud and much more.

In April of this year, just months ago, officials in Oregon wrapped up a lengthy fraud case. Again, to give credit where credit's due, this is a man

named Richard Vanderschuere. He faked disability. His wife Karen and son Richard, Jr. claimed to be full-time care providers. His mother claimed to be a weekend backup assistant. The so-called caretakers received payments for providing home health care while he received Social Security disability benefits. His mother was employed. By the way, this person's mother was employed as a fraud investigator for a State agency in the State of Oregon at the time. Here is his wife, to make sure she gets proper credit. We don't want to leave out the kid because they were all involved in this—trying to fleece the American taxpayers and defraud the American Government.

My point is very simple. My point is that when we take on waste, fraud, and abuse—and this is a new day; this is not part of the lost decade when we had a whole lot of people fleecing this program—when we do that, when we cut down on the waste, fraud and abuse and reduce the costs of Medicare, it is not about reducing Medicare for senior citizens.

I was in a little ice cream shop about 6 weeks ago in a little town in North Dakota. Two elderly women came up to me and said: BYRON, please don't let them take my Medicare benefits away. I understand that is what they are going to try to do.

I said: Well, they are not going to do that, but who told you that?

They said: We got telephone calls from some organization that said you have to be aware they are trying to take your Medicare Program away.

I said: Well, that is not true.

They said: Well, we got the telephone calls.

I said: You might have gotten the calls, but it is not true. It is false.

But what is happening around here—again, I don't know what the health care plan will be that comes out of the Finance Committee, but I will guarantee this: Whatever it is, it would not have a ghost of a chance of passing this Chamber if it begins to harm Medicare Programs for the elderly in this country. This is a very important program. We are the ones who created Medicare. We believe it is important. Those naysayers, those people who have always opposed everything—and there are plenty of them, by the way—they are the ones who are saying: If you cut waste, fraud, and abuse, you are going to cut X billions of dollars of costs; therefore, you are cutting health care for senior citizens. That is false. I think it ought to stop. We have groups out there that are making cold calls into homes trying to scare senior citizens.

The fact is Medicare is a very important program. It has enriched the lives of the elderly in this country. Would we want to go back to a time when half the senior citizens reached the point in their lives where they were finished with their work life, didn't have much in assets, and then sat around thinking: Oh, my God, I hope I don't get sick

because I don't have health care, and I can't find an insurance company that wants to cover me because they know what I know; that when you get older, sometimes you have those health issues that are most acute.

In North Dakota, I recently met a 111-year-old woman named Mary—111 years old. She is acutely aware of everything; she can visit with you about everything. She described to me when the barn burned down in 1904 when she was 6 years old. This is a wonderful, remarkable woman. She is certainly the oldest person in my State and I assume one of the oldest people in our country. But think of what she has experienced in 111 years. Unbelievable things: the automobile, the airplane, walking on the Moon, you name it. But then think of this: In the middle of all this, after she was well into her sixties, Medicare was provided to say to America's senior citizens: You don't have to be frightened anymore. We are going to provide health care coverage in your older years.

Now 99 percent of the senior citizens in this country have health care. They are our parents, our grandparents, those who raised us, those who loved us, those who cared about us. This country then provided a program called Medicare which said: You don't have to be afraid in your older years. You are going to be able to get health care. That is what Medicare is about. Is it perfect? No, it is not perfect. Is there waste, fraud, and abuse? Yes, there is, and we are determined to shut it down. It will be shut down with the right kinds of programs to prevent fraud. And if you try to cheat the Medicare Program, we are going to aggressively prosecute.

Again, I wish to make sure everybody understands, when we hear people say: If you reduce the cost of Medicare by getting rid of waste, fraud, and abuse you are hurting senior citizens and you are trying to cut senior citizens' benefits, that is false and it ought to stop. It is going on right now and it ought to stop. Organizations doing cold calls into homes of senior citizens ought to stop. And it is parroted by politicians and others who think it is an interesting message to scare senior citizens and it ought to stop.

Let me finish as I started. I don't know what kind of health care bill is going to come to the Senate, and I want to see it before I evaluate it. It is important. It is important to everybody. But I do know this: The Medicare Program is something that has very substantial support in this Chamber. I don't believe there is anything being written in any one of the committees in the Senate that would begin to diminish or in any other way weaken Medicare coverage for America's senior citizens. If that was the case, it wouldn't have a ghost of a chance of getting through this Senate.

I yield the floor.

Ms. MURKOWSKI. Mr. President, I ask unanimous consent to modify the

previously agreed to list of amendments to be considered in order to include my amendment No. 2530 and to set aside the pending amendment so mine may be called up.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. On behalf of the majority leader, I object.

The PRESIDING OFFICER. Objection is heard.

Ms. MURKOWSKI. Mr. President, I believe it is truly unfortunate that we are not allowed to consider this amendment. The amendment I was hoping to be able to bring up and consider is one that would prohibit the use of funds that has the effect of making carbon dioxide a pollutant subject to regulation under the Clean Air Act for any source other than a mobile source.

It is unfortunate that the majority will not allow us to consider this amendment. The problem it seeks to address is significant. I don't believe it is going to go away if we choose to ignore it. As disappointed as I am, this amendment has clearly received considerable attention, so I wish to take this time this afternoon to fully explain its intent, my efforts to ensure its bipartisan nature, as well as the reasons I believe it is so incredibly important for the Senate to be given an opportunity to vote in favor of its adoption, if not now, then at some other point.

In writing this amendment over this past week, I have listened to the concerns of many of my colleagues and the concerns of the environmental community, as well as the concerns expressed by the administration. My colleagues don't have to take my word for this. Look at the text of the amendment and see how it reflects—I think it so reflects—very seriously the comments and the criticisms from those who have weighed in. All I ask, at this time, is that for the next few minutes, my colleagues and my critics return the favor and listen to what I have to say.

For context, let's start back at the beginning. Back in April of 2007, the Supreme Court declared, in the case of *Massachusetts v. EPA*, that carbon dioxide is a pollutant that can be regulated under the Clean Air Act. The Court held that the EPA must regulate emissions from mobile sources—meaning vehicles—if the Agency determined that carbon dioxide posed a threat to public health and welfare.

In the wake of that decision, EPA began to lay the groundwork for Federal regulation of greenhouse gas emissions. Through its proposed "endangerment finding," the Agency has sought to confirm that greenhouse gas emissions are, indeed, a threat to the public health and welfare. That proposal is now under review and most expect that it will be finalized in the very near future.

The EPA has also released its draft rule to regulate mobile source emissions as required by the Supreme Court, and this will be accomplished

through a dual standard that includes increased vehicle fuel economy and reduced tailpipe emissions.

I am not putting the brakes on that proposal, despite some assertions to the contrary, but I am deeply concerned about the reach it may ultimately have. Under the "Prevention of Significant Deterioration" provisions within the Clean Air Act, anything found to be a pollutant under one section will be subject to regulation under all other sections of the statute.

So what exactly does this mean in plain English? The EPA's decision to regulate carbon dioxide legally covers not only mobile sources but also stationary sources. We tend to think of powerplants when we think of stationary sources, but also we think of office buildings, hospitals, schools, and apartment buildings. If you follow along those lines, you get the right idea. Very clearly, stationary sources must reduce emissions in order to bring our Nation to its climate goals, but forcing them to do so through the Clean Air Act would be one of the least efficient and most damaging ways to pursue that goal. It would be rife with unintended consequences and, I believe, potentially devastating for our economy.

Under the Clean Air Act, any stationary source that emits more than 250 tons of pollutants each year is subject to regulation. Unlike other pollutants, pretty much every form of economic activity generates some level of carbon dioxide emissions. So these add up relatively quickly. In fact, the U.S. Chamber of Commerce has looked at this very closely. They believe that more than 1.2 million buildings that have never before been regulated under the Clean Air Act would come under this regulation if Congress does not intervene and if EPA moves forward.

The 250-ton threshold would encompass more than just our major emitters. Caught in the same net would be dry cleaners, restaurants, the local Barnes & Noble bookstore. Realistically, we are probably talking about any facility that is heated or cooled by conventional means that is more than 65,000 square feet in size.

I think there are some very grave concerns about the path the EPA would lead us down. I think they are apparent. I think others are seeing this as well and are expressing their concerns. Just this week, I received letters from over 11 different agricultural groups, including the American Farm Bureau Federation. I have received letters from the American Council of Engineering Companies; NFIB, the National Federation of Independent Businesses; the National Association of Manufacturers and the U.S. Chamber of Commerce.

I ask unanimous consent that the letters from these organizations be printed in the RECORD.

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

NATIONAL FEDERATION  
OF INDEPENDENCE BUSINESS,  
Washington, DC, September 23, 2009.

Senator LISA MURKOWSKI,  
Hart Senate Office Building,  
Washington, DC.

DEAR SENATOR MURKOWSKI, On behalf of the National Federation of Independent Business (NFIB), the nation's leading small business advocacy organization, I am writing to support your amendment to the Fiscal Year 2010 Interior/Environment Appropriations bill to prohibit the Environmental Protection Agency for one year from using federal funds to regulate stationary sources of carbon dioxide (CO<sub>2</sub>).

As you know, the EPA proposed that six greenhouse gasses (GHGs), including CO<sub>2</sub>, endanger public health and welfare. These findings would trigger stringent new regulations under the Clean Air Act (CAA) that would disproportionately affect small entities that are not major polluters and least able to handle or even understand new restrictions. Regulation of GHGs under the CAA will create new burdens such as federal permitting requirements, restrictions on fuel choices and energy use, and requirements for installation of new energy efficient equipment.

Small business routinely cites unreasonable government regulations as a top problem, ranking number six on the 2008 NFIB Small Business Problems and Priorities publication. Regulatory costs are significant and small businesses pay disproportionately more than larger businesses. According to the 2001 NFIB study on Coping with Regulation, small businesses cite many reasons for being frustrated by government regulations, including dealing with the extra paperwork, understanding what is needed to be in compliance, and the dollars spent to comply with government regulations.

The cost of regulation for small business has risen by 10 percent, to \$7,647 per employee per year (according to the Small Business Administration's Office of Advocacy). This means that for the average member at NFIB with ten employees, the cost of regulation now exceeds \$75,000 annually. Adding more regulatory costs would be a serious blow to already overburdened small business owners, who according to the September 2009 NFIB Small Business Economic Trends survey, are still suffering from weak sales and profits numbers.

NFIB supports the Murkowski amendment because it would delay for one year the use of federal funds by the EPA to regulate stationary sources of CO<sub>2</sub>. As the 111th Congress continues, I look forward to working with you to address energy issues in a way that is not disruptive to the small business community.

Sincerely,

SUSAN ECKERLY,  
Senior Vice President, Public Policy.

SEPTEMBER 23, 2009.

U.S. Senate.

DEAR SENATOR: The undersigned agricultural organizations urge your support for an amendment to be offered by Senator Murkowski that would prevent unintended and unwanted consequences from regulation by the Environmental Protection Agency (EPA) of greenhouse gases under the Clean Air Act.

The Supreme Court, in *Massachusetts v. EPA*, held that EPA was not precluded from regulating greenhouse gases under section 202(a) of the Clean Air Act, which addresses new motor vehicle emission standards. This amendment would not affect the rulemaking since the rulemaking is still pending.

We do not believe it is sound policy for the EPA to extend this pending regulation beyond motor vehicles into activities like the production of crops, livestock and poultry.

We urge your support for the Murkowski amendment.

Sincerely,

American Farm Bureau Federation®,  
American Soybean Association,  
National Association of Wheat Growers,  
National Barley Growers Association,  
National Cattlemen's Beef Association,  
National Cotton Council, National  
Council of Farmer Cooperatives, Public  
Lands Council, United Egg Producers,  
US Dry Pea and Lentil Council, USA  
Rice Federation.

NATIONAL ASSOCIATION  
OF MANUFACTURERS,

Washington, DC, September 23, 2009.

U.S. Senate,

Washington, DC.

DEAR SENATOR: The National Association of Manufacturers (NAM), the nation's largest industrial trade association representing small and large manufacturers in every industrial sector and in all 50 states, urges, you to support the Murkowski Amendment to H.R. 2996, the Department of the Interior, Environment, and Related Agencies Appropriations Act, 2010.

At a time when our economy is attempting to recover from the most severe recession since the 1930s, Environmental Protection Agency (EPA) regulations, with no guidance from Congress, will establish disincentives for the long-term investments that would be necessary to grow jobs and expedite economic recovery. The Murkowski Amendment seeks to ensure a healthy and productive discussion in Congress on harmonizing our nation's energy, environmental and economic needs before the EPA starts regulating carbon dioxide (CO<sub>2</sub>) emissions from stationary sources, including manufacturing facilities.

Manufacturers support a comprehensive, federal climate policy within a framework that will cause no economic harm while granting sufficient time to deploy low-carbon technologies, such as carbon capture and sequestration, renewable energy and a renewed and large-scale deployment of nuclear power plants.

Prior to the onset of the financial crisis in 2008, energy inflation and price volatility were major contributors to a loss of approximately 3.7 million high-wage manufacturing jobs. As you may know, manufacturers use one-third of our nation's energy. Because of the impact a federal climate policy will have on the nation's energy future, this is an issue that must be debated by Congress without preemption from a federal agency.

Supporting the Murkowski Amendment does not convey opposition to climate change policy; it merely allows Congress to do its job. We concur with the sentiment in a Washington Post September 21 editorial, "Regulating Carbon." It noted that the EPA "is preparing to regulate carbon under the Clean Air Act," which "is breathtakingly unsuited to the great task of battling global warming. . . . Yet if Congress does not act, it's likely that the EPA will. It won't be pretty."

The NAM's Key Vote Advisory Committee has indicated that votes on the Murkowski Amendment, including potential procedural motions, may be considered for designation as Key Manufacturing Votes in the 111th Congress. Thank you for your consideration.

Sincerely,

JAY TIMMONS.

AMERICAN COUNCIL  
OF ENGINEERING COMPANIES,

Washington, DC, September 23, 2009.

Hon. LISA MURKOWSKI,

U.S. Senate,

Washington, DC.

DEAR SENATOR MURKOWSKI: The American Council of Engineering Companies (ACEC) is

pleased to support your amendment to the FY 2010 Interior Appropriations bill disallowing for one year the U.S. Environmental Protection Agency (EPA) from regulating under the Clean Air Act greenhouse gas (GHG) emissions from stationary sources. Without taking an overall position on comprehensive climate change legislation, we agree that Clean Air Act regulation of GHGs for stationary sources is not the appropriate way to manage carbon emissions.

ACEC is the business association of America's engineering industry, representing more than 5,000 independent engineering companies throughout the United States engaged in the development of America's infrastructure. ACEC member firms represent the broad spectrum of the industry, from very large firms to small, family-owned businesses.

We think it is wise public policy to delay for one year potentially premature EPA regulatory actions under the Clean Air Act before the Congress decides on its course of action. The breadth of the issues in a comprehensive climate change-energy bill requires thoughtful debate with ample time to negotiate differences between senators from all regions of the country, which has just begun in the Senate and should not be hindered by concerns that EPA could be developing a regulatory program for stationary sources that may be entirely inappropriate for GHG emissions. Even the EPA Administrator has indicated that she would prefer that the Congress work its will on a climate change bill rather than ceding authority to EPA.

It is also important to note that your amendment does not permanently take away any authority from EPA, but simply asks for a one-year delay in stationary source regulations. Given that the House-passed climate change bill makes it clear that stationary sources are subject only to the provisions of the legislation and not to Clean Air Act regulations, your amendment is eminently reasonable as the debate continues.

At the same time, we are hopeful that the amendment can be carefully tailored to limit EPA's GHG regulatory authority under the Clean Air Act to only mobile sources. We thank you for the opportunity to express our views. If you have any questions or would like to discuss our comments, please feel free to contact me or our environment and energy director, Diane S. Shea.

Sincerely,

DAVID A. RAYMOND,  
*President and CEO.*

CHAMBER OF COMMERCE  
OF THE UNITED STATES OF AMERICA,  
*Washington, DC, September 23, 2009.*

TO THE MEMBERS OF THE UNITED STATES SENATE: The U.S. Chamber of Commerce, the world's largest business federation representing more than three million businesses and organizations of every size, sector and region, strongly supports an amendment expected to be offered by Sen. Murkowski and strongly opposes an amendment expected to be offered by Sen. Feinstein to the FY2010 Interior, Environment and Related Agencies Appropriations Act, both related to greenhouse gas emissions. The Murkowski amendment would ensure that should the U.S. Environmental Protection Agency seek to regulate greenhouse gases under the Clean Air Act absent specific authorization from Congress, that EPA limit such regulation to mobile sources. This was the issue decided by the U.S. Supreme Court in *Massachusetts v. EPA*. The Feinstein amendment would seek to "tailor" a small subset of EPA regulations, but in a manner far less comprehensive than the Murkowski amendment.

The House has approved climate change legislation, and the Senate may take up the

matter this Congress. It would be inappropriate for EPA to usurp ongoing congressional action on a major policy decision and regulate the very same sources (and the very same emissions) that would be covered by greenhouse gas legislation. Yet that is precisely what would happen if EPA were allowed to proceed.

Since the *Massachusetts v. EPA* decision, EPA has issued regulations implementing a federal greenhouse gas registry, has proposed "endangerment" for the motor vehicle sector, and has proposed a rule to regulate motor vehicle greenhouse gas emissions.

EPA is also likely to issue and enforce as early as spring 2010 a suite of regulations applying to stationary sources, New Source Performance Standards for equipment, Prevention of Significant Deterioration construction permits, and Title V operating permits.

EPA asserts it can use the Clean Air Act to "tailor" its rules to large industrial sources, despite the Act's clear language. The Chamber disagrees, believing only Congress can determine the scope of the Clean Air Act. As raised repeatedly in correspondence from the Chamber, EPA could cripple the economy if it opens greenhouse gas regulation beyond mobile sources. EPA should remain within the bounds of the *Massachusetts v. EPA* decision, which dealt with mobile, not stationary, sources.

The Murkowski amendment would allow EPA to move forward with its greenhouse gas registry and to take public comment on its motor vehicle rule, but it would hold in abeyance EPA's efforts to regulate stationary sources while Congress considers greenhouse gas legislation and the Obama administration negotiates an international accord. If enacted, the Murkowski amendment would allow Congress to consider meaningful and pragmatic greenhouse gas legislation free from any EPA-imposed threat of a regulatory cascade.

The Chamber opposes the Feinstein amendment, which would only exempt farms and other small stationary sources from Clean Air Act Title V regulation. While the Chamber has long argued that the Clean Air Act is a poor tool to address greenhouse gas emissions because it would trigger regulation of smaller sources, like farms, hospitals and small businesses, it would be unwise policy for Congress to react to an attempt by EPA to assert jurisdiction over greenhouse gas emissions from stationary sources with piecemeal, temporary, and wholly incomplete fixes.

The Chamber reiterates its call for Congress to approve bipartisan, comprehensive greenhouse gas legislation in a manner that adequately addresses environmental, energy security, economic, and international aspects of the issue. The Murkowski amendment would facilitate a bipartisan, sensible framework for greenhouse gas legislation and ensure that EPA does not exceed the Court's *Massachusetts v. EPA* decision.

Sincerely,

R. BRUCE JOSTEN,  
*Executive Vice President,*  
*Government Affairs.*

Ms. MURKOWSKI. To its credit, the EPA realized that regulations at the 250-ton level are simply not feasible. So to try and resolve this issue, the Agency is apparently considering what they are calling a tailoring proposal. This would lift the Clean Air Act's regulatory threshold to 25,000 tons. That is a hundredfold increase.

I shared the Agency's concern about a 250-ton carbon dioxide limit, but this 250-ton proposal moving up to a 25,000-

ton proposal, this tailoring issue, is simply not going to hold. It has no legal basis. I think we expect it would be swiftly rejected by the courts. The EPA cannot constitutionally legislate a major change in the Clean Air Act. Ultimately, once this has all played out, the Agency's carbon dioxide regulations would remain in effect, but the threshold would be triggered at a level 100 times lower than the Agency had planned.

That brings us to the tremendous consequences we can expect as a result. There is widespread agreement that the regulation of carbon dioxide emissions under the Clean Air Act would be absolutely unworkable and, at the same time, economically devastating. In the words of a long-term Democrat over in the House, it will create a "glorious mess." Another observed it could result in "one of the largest and most bureaucratic nightmares that the U.S. economy and Americans have ever seen."

Just this week, the editors of the *Washington Post* argued that the Clean Air Act is "breathtakingly unsuited to the great task of battling global warming." The *Wall Street Journal's* editors cast it as "reckless endangerment." They went on to assert that the regulation would be like putting "a gun to the head of Congress" to "play cap and trade roulette with the U.S. economy."

That may sound over the top, but even some members of the environmental community have agreed with the metaphor, as one clean air advocate affirmed this by saying this regulation is "the legal equivalent of a .44 magnum."

This regulation is a train that could wreck our fragile economy. It is our own creation, and it is barreling toward us at full speed. I recently saw an ironic motivational poster that said: "Government—if you think the problems we create are bad, wait until you see our solutions." It is fair to say that this issue, the regulation of carbon dioxide under the Clean Air Act, is one of the many examples of why that poster was created and, sadly, it occasionally rings true.

Today, however, the Senate can choose another course for the debate over energy and climate policy. The Clean Air Act is one of our worst options to regulate carbon dioxide emissions, but it is not our only option for that cause.

Those of us in Congress can and should step up and pass workable, intellectually honest climate legislation—whether it is a system of cap and trade, a carbon tax, or something else that removes the Clean Air Act from the equation. Nearly every participant in this debate, from elected officials to businesses and the environmental community, has stated their preference for legislation over regulation.

That is where my amendment comes in. For exactly 1 year, it would limit the EPA's ability to regulate carbon dioxide emissions to just the mobile

sources that were the subject of the 2007 Massachusetts v. EPA lawsuit. This is nothing more than a temporary timeout that will give us the breathing room in an already heated debate. It will give us the time we need to develop a sensible, effective policy that achieves the same result at a much lower cost.

Anyone who takes the time to read my amendment will see I have gone to great lengths here to ensure it does not lead to any unintended or adverse consequences. It has been drafted and redrafted to limit one action by the EPA for 1 year, and nothing else. I have been responsive to bipartisan requests, even from Members who I knew would not be able to support this amendment, because I am committed to avoiding any overreach.

So the result we have is an amendment that will not interfere or conflict with any other regulation or action that EPA is obliged to complete. That goes for the preparatory work for the regulation of carbon dioxide emissions. It holds true for the rule to expand the renewable fuel standard, for construction permits, and for regulations to foster the development of clean coal technologies.

My amendment will not in any way impact EPA's authority relating to the reporting of greenhouse gas emissions, its ability to develop a voluntary carbon offset program, to issue permits for energy infrastructure on or near Federal land, permit carbon sequestration projects, or to move forward with very important work of both exploring for and producing the vast reserves of domestic energy on our Outer Continental Shelf.

All of these concerns have been raised over the past several days, before this amendment was even introduced. All of these concerns are explicitly addressed within it. Some of our Nation's leading Clean Air Act attorneys—among the best and brightest legal minds—have assisted us in its preparation. They agree it will do exactly as it says, and that leaves very little ground for the claims that have been made against it.

Given how devastating the EPA's regulation of carbon dioxide emissions could be, many casual viewers are probably left wondering why, exactly, my amendment has drawn such fierce opposition. Well, again, let me be clear. As much as anything else, the regulation of carbon dioxide under the Clean Air Act is being used as a thinly veiled threat to force the Senate to act on climate legislation, regardless of where we are in what remains an ongoing and incredibly important debate.

The possibility that our worst option to reduce emissions will move forward, despite its consequences, is supposed to somehow compel us to move faster. We are expected to push through a climate bill, perhaps regardless of its content, in order to stave off this regulation. If the House debate is any indication of how our own will proceed, we will be

asked to rush to judgment, cut off debate on one of the greatest challenges of our time, and to pass a bill—any bill—that purports to reduce emissions.

In my mind, this situation has created a false dilemma, a proverbial Morton's Fork on Capitol Hill—meaning between a rock and a hard place. Right now, those of us in the Senate are clearly left with two bad choices—the EPA's endangerment regulation or the House's energy and climate bill—neither of which will end well for the American people. Making matters worse, we are told there isn't enough time to consider our options and develop a more viable path forward.

By voting "yes" on my amendment, we could easily change this unfortunate dynamic. But we will not halt or hinder progress on climate legislation, as some have suggested. Not one of the climate bills that has been introduced so far would take effect until 2012—2 full years after the limitation imposed by my amendment would expire.

If my amendment were to be accepted, the EPA will continue its work to regulate emissions from mobile sources. The agency and its employees will go about their business exactly as normal. They can even continue developing regulations for carbon dioxide emissions from stationary sources. For the next year, they simply cannot put those regulations into effect. One year after this bill is signed into law, that limitation would expire, and the EPA would have every authority to proceed if Congress has still not acted.

For those who have expressed concern that my amendment would become a long-term fixture in appropriations legislation, be assured that I will work with you to ensure that the climate debate not only proceeds but reaches a conclusion in the form of a responsible bill that a majority of us can support. As an elected representative of the State that has been hit hardest by climate change, I will work in good faith with all who want to address climate change in an effective way, while protecting our fragile economy from further harm.

To those who have claimed I am trying to put the brakes on climate legislation, I simply remind you of my longstanding support for renewable, nuclear, and alternative energies as part of the solution. There is a right way and there is a wrong way to moving forward in addressing climate change. EPA regulation of greenhouse gas emissions is simply the wrong way. We must reduce emissions, but it is unacceptable to do so at any cost and by any means. While Congress has not yet developed a workable bill, I will continue to work as hard as I can to make sure that, in fact, we do.

Unlike many Members of the Senate, I have also cosponsored cap-and-trade legislation. I cosponsored the Low Carbon Economy Act that was offered last Congress by Senator BINGAMAN and Senator SPECTER. This year, recognizing that our work is far from fin-

ished, Senator BINGAMAN and I worked together, very cooperatively and collaboratively, on another comprehensive measure—the American Clean Energy Leadership Act. We reported that bill from the Energy Committee more than 3 months ago. It would significantly reduce greenhouse gas emissions, without causing economic harm, and yet it is still waiting to be heard on the Senate floor.

The 23 members of the Energy Committee produced a bipartisan energy bill in the first 6 months of Congress. I have every reason to believe that the full Senate can, over a time period twice as long, develop an effective climate policy that will further reduce greenhouse emissions, without disrupting our economy. But that will require us to base our decisions more than on vote counts and special requests. It will require us to set aside politics and focus on substance. It will force us to cross the aisle instead of closing ranks, and it will mean acting on behalf of the American people, in their best interests, rather than our own or our party's.

With regard to my amendment, the majority has again objected to calling it up. They have done everything they can to prevent a vote from occurring on the amendment, culminating in the objection that we not even have debate on the matter today. I want my colleagues to know, however, that this issue will not go away. Neither will my commitment to seeing it addressed head-on in a responsible and, if at all possible, bipartisan way.

I ask unanimous consent that Senators BARRASSO, JOHANNIS, and CHAMBLISS be added as cosponsors to my amendment.

With that, I yield the floor.

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

The Senator from California is recognized.

Mrs. FEINSTEIN. Mr. President, I know Senator BOXER, the chairman of the Environment and Public Works Committee, has an hour reserved to come and speak.

First, I will respond to the comments of the distinguished Senator from Alaska. I hope she will understand there are many of us who have viewed her amendment with substantial alarm, for reasons that I thought I might spend a few moments speaking about.

Essentially, as I understood the amendment, which was blocked from coming to the floor, it attempted to prohibit the EPA from using any funds to enforce the Clean Air Act to reduce greenhouse gas emissions from stationary sources.

The proponents have argued that their only goal was to protect small family-owned farms and businesses from overly burdensome regulations. Yet the amendment would have gone much further. In fact, it would actually exempt some of the Nation's largest commercial emitters from climate



change regulation, including huge industrial facilities, such as powerplants and refineries.

I am very pleased that this amendment is not before us today. The underlying rationale, as I understand it from the amendment, is groundless. EPA Administrator Lisa Jackson has made it clear that the agency will not use the Clean Air Act to regulate either small businesses or family-owned farms. I was prepared, should the amendment have come up, to put down a side-by-side amendment that would have clearly exempted any farm, as well as any business, that emits under 25,000 tons of carbon dioxide per year.

Let me point this out. Stationary industrial sources account for over half of the U.S. greenhouse gas emissions, according to EPA. These are the leading cause of climate change, and they must be reduced if we have any hope of containing the worst impact of climate change. The amendment would have hampered the administration's effort to tackle one of the biggest pieces of the emissions puzzle: large industrial facilities. It would have been a major setback.

Thirdly, the amendment would effectively overturn the Supreme Court's landmark decision in *Massachusetts v. EPA*. In that decision, the Court found that the Clean Air Act requires the EPA to determine whether the emissions of greenhouse gases may be reasonably anticipated to endanger public health or welfare and then comply with the Clean Air Act requirements designed to protect public health from dangerous pollution.

Upon completion of an endangerment finding, the Clean Air Act requires EPA to control greenhouse gases from both stationary and mobile sources.

Many argue—and I happen to agree—that regulating the largest greenhouse gas emitters through new legislation, establishing a cap-and-trade system, would be more efficient and less expensive than regulating these sources under the existing Clean Air Act.

But until Congress enacts climate change legislation, EPA has a legal obligation to follow the Clean Air Act. So if one does not want EPA to take action under the Clean Air Act, then this body should want to pass a cap-and-trade bill.

The chairman of the EPW Committee, Senator BOXER, has been working very hard to put together a bill which has an opportunity to pass this Senate.

The point is, if we do not want the Clean Air Act to prevail, then the cap-and-trade bill is the only way to go. That is a clear incentive for the Senate and the House to pass a bill.

EPA has released a draft endangerment finding which it is going to soon finalize. Yet the amendment would have blocked EPA from completing the endangerment finding and from complying with its legal obligations to protect public health. The repercussions would have been major. It

means EPA would not be able to complete a joint rulemaking with the Department of Transportation to increase corporate average fuel economy, which we call CAFE, and create a tailpipe emissions standard for automobiles.

That would have been a major problem. It would block implementation of the 2007 fuel economy law which I authored with Senator SNOWE and which took us a long time to get passed and enacted.

By undermining the negotiated agreement between States and the Obama administration, the Murkowski amendment would also have likely resulted in States moving forward with their own tailpipe emissions standards which automakers have fought for years as too onerous. This would have stopped California and 14 other States and the District of Columbia from moving forward with implementing tailpipe emissions standards.

This amendment is vigorously opposed by the Alliance of Automobile Manufacturers, which includes General Motors, Ford, and Chrysler, the Association of International Automobile Manufacturers, and the United Auto Workers. To that end, I ask unanimous consent to have printed in the RECORD at the conclusion of my remarks a letter from the Auto Alliance and the Association of International Automobile Manufacturers.

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

(See exhibit 1.)

Mrs. FEINSTEIN. Mr. President, finally, the amendment would send the wrong signal to the rest of the world about the Senate's intentions on climate change. It would suggest that we want to ignore the clear imperative to act, despite the efforts of the administration to motivate the international community in advance of the Copenhagen summit.

There is some concern also about small emitters. EPA is not planning to regulate small emitters. EPA Administrator Lisa Jackson has clearly stated on several occasions that the agency will not regulate small emitters. She said it in her confirmation hearings, she said it again at Senate budget hearings, and she reiterated that comment when she appeared before the Senate Interior Appropriations Subcommittee hearing on EPA's fiscal year 2010 budget just a few months ago.

In fact, Administrator Jackson has sent a draft deregulatory rule to the Office of Management and Budget for review which would establish clearly that all but the very largest sources of greenhouse gas will be preemptively exempted from the stationary source permitting requirements in the Clean Air Act.

She has no intention of regulating small sources that emit under 25,000 tons of carbon dioxide or any small farm.

Mr. President, 25,000 metric tons is a very high threshold. According to EPA, it is equivalent to the emissions from

burning 131 trainloads of coal per year—these would be exempted—or burning 2.8 million gallons of gasoline annually.

The 25,000-ton threshold would exempt every small source, focusing only on 13,000 of the largest emitters in the United States.

Let me say that again. The 25,000-ton threshold which EPA intends to proceed with, and which my side-by-side amendment would have had as one of the two criteria, would exempt every small source, focusing only on the 13,000 largest emitters in the United States.

EPA intends to only regulate the largest facilities, and these facilities are, almost without exception, already regulated under the Clean Air Act for emissions of other pollutants such as soot, smog-forming nitrous oxides, or acid-rain-inducing sulfur dioxide.

Let me now explain why the Murkowski Amendment would impact the joint EPA-Department of Transportation rulemaking on automobile greenhouse gas emissions.

This rulemaking is of critical importance, and the regulation implementing this law was negotiated by the White House in cooperation with automakers, the States, and labor.

But according to a letter I received from EPA Administrator Lisa Jackson last night, the impact of the Murkowski amendment “would be to make it impossible for the EPA to promulgate the light-duty vehicle greenhouse-gas emissions standards that the agency proposed on September 15, 2009.”

She writes:

Because of the way the Clean Air Act is written, promulgation of the proposed light-duty vehicle rule will automatically make carbon dioxide a pollutant subject to regulation under the Clean Air Act for stationary sources, as well as for light-duty vehicles. The only way that EPA could comply with the prohibition in Senator MURKOWSKI's amendment would be to not promulgate the light-duty vehicle standards.

These standards are something Senator SNOWE and I have worked on for at least 7 years now, beginning with the SUV loophole and ending with the bill that became law, would be totally undermined. By undermining the negotiated agreement between States, the amendment would also likely result in States moving forward with their own tailpipe emissions standards.

As I indicated before, in 2002 California enacted a landmark law to reduce tailpipe emissions standards by 30 percent for all new sedans, trucks, and SUVs by 2016.

I also stated that 14 other States—namely, Arizona, Connecticut, Florida, Maine, Maryland, Massachusetts, New Jersey, New Mexico, New York, Oregon, Pennsylvania, Rhode Island, Vermont, Washington, and the District of Columbia—have adopted or announced their intention to adopt California's greenhouse gas emissions controls.

The amendment would have been a major roadblock in efforts to improve fuel economy standards for vehicles.



I don't think we can bury our head in the sand when it comes to climate change.

I would like to conclude by reminding my colleagues that it makes no sense at this particular point in time to put on the floor a major amendment which well could have devastated both the EPA and any effort to get to cap-and-trade legislation when, in fact, the EPW Committee is struggling to write a comprehensive bill which has an opportunity to pass this body.

Again I say, if people do not want the Clean Air Act prevailing, then the only way you can do that is with a cap-and-trade bill. That is the way the committee of this body is proceeding. I believe it is the correct way.

I believe our Nation is in serious jeopardy, as is the rest of planet Earth, with global warming. I believe it is real. Just this week, the *Journal Nature* published a new paper that found rapid deterioration of the ice sheets on Greenland and Antarctica. Yesterday on this floor, I showed the deterioration in the Arctic. I showed the deterioration in Greenland. I showed the deterioration in the Chukchi Sea. I showed the deterioration off Barrow, AK. It is happening all over the world.

The Flat Earth Society cannot prevail. I think there is a real danger signal out there for planet Earth. We know we cannot reverse it. We know that greenhouse gases do not dissipate and go away after a period of time in the atmosphere. We now know these gases that began during the Industrial Revolution are still present in the atmosphere, and we know that the Earth is not immutable, that it can change. We look at other planets and we see that they have changed over the millennia. What we do here to protect our planet Earth for the next generations is so key and critical.

This discussion has to be joined in an appropriate way, and an appropriate way is when a cap-and-trade bill is produced by the Environment and Public Works Committee and the chairman of that committee is on this floor and the bill is open for amendments and there is a free flow of debate and discussion.

I believe the science is real. I pointed out yesterday we have a project in intelligence whereby the satellites are tracking deterioration in the ice shelves of the world. I hope to present more of that information when there is a bill on the Senate floor.

I ask unanimous consent to have printed in the RECORD Administrator Lisa Jackson's letter.

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

UNITED STATES ENVIRONMENTAL  
PROTECTION AGENCY,  
Washington, DC, September 23, 2009.

Hon. DIANNE FEINSTEIN,  
U.S. Senate,  
Washington, DC.

DEAR SENATOR FEINSTEIN: Thank you for your letter about Senator Lisa Murkowski's Amendment Number 2530 to H.R. 2996, the Department of the Interior, Environment,

and Related Agencies Appropriations Act. As you noted in your letter, Senator Murkowski's amendment would prohibit the Environmental Protection Agency from using any funds made available under the Act to take any action that would have the effect of making carbon dioxide a pollutant subject to regulation under the Clean Air Act for any source other than a mobile source.

You asked me what the practical impact would be if Congress enacted Senator Murkowski's amendment. Perhaps the most striking impact would be to make it impossible for the Environmental Protection Agency to promulgate the light-duty vehicle greenhouse-gas emissions standards that the agency proposed on September 15, 2009. Because of the way the Clean Air Act is written, promulgation of the proposed light-duty vehicle rule will automatically make carbon dioxide a pollutant subject to regulation under the Clean Air Act for stationary sources, as well as for light-duty vehicles. The only way that EPA could comply with the prohibition in Senator Murkowski's amendment would be to not promulgate the light-duty vehicle standards.

As you know, promulgation of EPA's light-duty vehicle greenhouse-gas emissions standards is an essential part of the historic agreement that President Obama announced earlier this year with the nation's auto-makers, the State of California, the Department of Transportation, and EPA. That agreement attracted broad, bi-partisan support. The joint DOT-EPA standards are projected to save 1.8 billion barrels of oil over the life of the program, which is twice the amount of oil (crude oil and products) imported in 2008 from the Persian Gulf countries, according to the Department of Energy's Energy Information Administration Office. Additionally, the standards are projected to help save consumers more than \$3,000 over the lifetime of a model year 2016 vehicle and reduce approximately 900 million metric tons of greenhouse gas emissions. Enactment of Senator Murkowski's amendment would pull the plug on those extraordinary accomplishments.

Sincerely,

LISA P. JACKSON,  
Administrator.

EXHIBIT 1

SEPTEMBER 24, 2009.

Hon. DIANNE FEINSTEIN,  
U.S. Senate, Hart Senate Office Building,  
Washington, DC.

DEAR SENATOR FEINSTEIN: We are writing regarding Senator Murkowski's Amendment Number 2530 to H.R. 2996, the Department of the Interior, Environment, and Related Agencies Appropriations Act. As manufacturers, we are sympathetic to the thrust of Senator Murkowski's amendment that the Congress—and not simply EPA acting under the provisions of the current Clean Air Act—should determine how best to reduce U.S. greenhouse gas emissions economy-wide.

However, the amendment raises additional issues that must be considered where complicated and interconnected environmental and legal issues are at stake. We are concerned that due to the complex interactions among regulations under the various sections of the Clean Air Act, the amendment may impact significantly pending regulations in the mobile source sector—despite language in the amendment that would appear to leave the sector unaffected. In a letter to Senator Feinstein dated September 23, Administrator Jackson stated EPA's interpretation that the Murkowski amendment as filed would “make it impossible for the Environmental Protection Agency to promulgate the light-duty vehicle greenhouse-gas emissions standards that the agency proposed on September 15, 2009.”

While the author of the amendment appears not to intend this outcome, we feel compelled to express our concerns. It is critical that the national program for regulating greenhouse gas emissions from autos be finalized early next year. Failure to do so would subject automakers to a patchwork of conflicting state and federal regulations.

Therefore, we respectfully oppose the adoption of the Murkowski amendment as written to H.R. 2996.

Sincerely,

DAVE MCCURDY,  
President & CEO, Alliance of Automobile Manufacturers.

MICHAEL STANTON,  
President & CEO, Association of International Automobile Manufacturers.

Mrs. FEINSTEIN. I yield the floor.

The PRESIDING OFFICER. The Senator from Alaska.

Ms. MURKOWSKI. Mr. President, under the unanimous consent agreement, I apparently had 30 minutes. Can the Chair tell me if I have time remaining?

The PRESIDING OFFICER. The Senator from Alaska has 11 minutes remaining.

Ms. MURKOWSKI. Mr. President, I know the Senator from Oklahoma had wanted to make a couple comments, but I would like to take a couple extra minutes before I turn to him in response to my friend and colleague from California.

In many ways, she has made my point or supported the argument. I would agree that, in fact, in order to deal with this very timely issue, this very significant issue, we must act. I just do not believe that utilizing the regulation, moving a climate change regulation through the EPA, is the best instrument, the most effective instrument.

The people I represent back home are very concerned about this, as I have indicated, and are expecting their Congress to act. But they do not feel very comfortable with unelected bureaucrats in the Environmental Protection Agency telling them that, in fact, this is the road we are going to be going down, with no real appreciation or sensitivity to the environmental factors that we in this body assess as we are trying to advance policy. We need to be driving forward good, thoughtful, considered, reasonable policy on the issue of climate change.

I am not disagreeing we stop on this issue. I am simply suggesting we need to make sure it is Congress, it is through the legislative process that we advance these very important policy initiatives.

I do want to also make a comment about the concern that somehow or another my legislation would pull back on what the EPA is currently doing with mobile sources, the emissions from tailpipes. I don't think we could have drafted the amendment any more clear to ensure that it is specific as to the stationary sources.

Again, I urge my colleagues to make sure they are looking at the draft of

the amendment we have proposed and not some previous initiatives.

One final point before I turn to Senator INHOFE. The point has been made by my colleague from California that the Administrator for EPA has said it is not her intention to be regulating the small emitters—the farms, the small businesses. She has made those statements, and I appreciate that, but the problem we face is the Clean Air Act, which doesn't give her that flexibility to change the Clean Air Act. She is obligated to regulate those entities that emit in excess of 250 tons. These are our smaller emitters. So even though she may have suggested or stated this is not her intention to go down that road—she can perhaps move forward with this tailoring proposal, but as I stand before you, I can almost bet that will be challenged in court and it will not pass the test and we will be stuck with what we are all attempting to avoid, which is capturing the smaller businesses—the restaurants, the dry-cleaners, et cetera—into this net as we try to provide for the regulation of the major emitters.

I am sure we will have plenty of opportunity on this floor to continue this debate, but at this time, Mr. President, I yield the remainder of my time to my colleague from Oklahoma.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized.

Mr. INHOFE. Mr. President, I only want to be here to thank the Senator from Alaska and Senator THUNE for trying to bring to our attention the issue of the endangerment findings. I have been discussing the incoming economic train wreck that can result from these regulations since the case of *Massachusetts v. EPA* was decided back in 2007. The EPA's regulatory reach could go everywhere. It could go into schools, hospitals, assisted-living facilities, and just about any activity that meets the minimum thresholds of the Clean Air Act.

Despite the attempts to draft an exemption for small businesses by the senior Senator from California, this effort would be hollow at best. Upon issuance of mobile source regulations the EPA has proposed in its light-duty vehicle greenhouse gas emission standards, the farmers and small sources still retain the obligation under the Clean Air Act, and this obligation is enforceable through citizen suits which we have confirmed through environmental groups will follow. So we know that is going to happen.

I would have to say, as the ranking member on the Environment and Public Works Committee, the more we get into this, the more complications we find. In the process of coming up with some type of an endangerment finding, we find that the information science has been suppressed. We know of the case of Dr. Alan Carlin, who claims his assessment of the latest science on global warming wasn't considered in the endangerment proposal. So we have the endangerment proposal. And some

people are not aware of how this process works; that ultimately, if the findings are there, that is when they reach into every life in America. However, this Dr. Carlin has been with the EPA for a long period of time, and he was upset that his information was intentionally suppressed.

Then we find out that information concerning the economics, such as we found through the U.S. Treasury's assessment when they were trying to say, during the consideration of, perhaps this modified bill that it would be the cost of a postage stamp a day, that in fact it would have been some \$1,761 per family every year—we tried to relate that back to what kind of a tax increase this is. If you remember back in the year 1993, we had the Clinton-Gore tax increase—the largest tax increase in decades. It was the inheritance tax, marginal rates, capital gains, and every kind of tax imaginable. If you add all that up, that was a \$32 billion tax increase. This would be almost 10 times that much.

So I think, as we progress along the lines of the endangerment finding, we know how it will be life changing for every element of our society. So I appreciate the efforts of both Senator MURKOWSKI and Senator THUNE to bring this issue of endangerment findings to the forefront. I am not sure it is the best idea to try to get a 1-year moratorium because in a way that might suppress some of the activity that is going on to expose how bad this is to the public.

Having said that, I appreciate being yielded a small amount of time, and I yield the floor.

#### AMENDMENT NO. 2549

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. VITTER. Mr. President, I stand to briefly discuss my amendment, No. 2549, which is about the so-called czar issue that has a number of Members on both sides of the aisle very concerned.

As I introduce this amendment, Mr. President, let me ask unanimous consent to add Senators GRASSLEY, BUNNING, ROBERTS, and BROWNBACK as coauthors of the amendment.

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

Mr. VITTER. Mr. President, at this point, I call up amendment No. 2549.

The PRESIDING OFFICER. Without objection, the clerk will report.

The assistant legislative clerk read as follows:

The Senator from Louisiana [Mr. VITTER], for himself and Mr. GRASSLEY, Mr. BUNNING, Mr. ROBERTS, and Mr. BROWNBACK, proposes an amendment numbered 2549.

Mr. VITTER. Mr. President, I ask unanimous consent that reading of the amendment be disposed with.

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

The amendment is as follows:

(Purpose: To ensure that the Assistant to the President for Energy and Climate Change (commonly known as the "White House Climate Change Czar") is not directing actions of departments and agencies funded by this Act)

At the appropriate place, insert the following:

#### FUNDING LIMITATION

SEC. \_\_\_\_\_. None of the funds made available by this Act may be obligated for the purpose of departments or agencies funded by this Act and lead by Senate-confirmed appointees implementing policies of the Assistant to the President for Energy and Climate Change (commonly known as the "White House Climate Change Czar").

Mr. VITTER. Mr. President, I did just waive reading of the amendment, but I am going to read it. It is very short and very to the point, and I think simply reading the language is the best way to introduce the concept.

The language is very clear:

None of the funds made available by this Act may be obligated for the purpose of departments or agencies funded by this Act and led by Senate-confirmed appointees implementing policies of the Assistant to the President for Energy and Climate Change (commonly known as the "White House Climate Change Czar").

That is the entire amendment, and the amendment is, again, very simple and straightforward. The point it is making is that we have Cabinet-level appointees. They come before the Senate for vetting and they come before the Senate for confirmation. After they are confirmed, they come before the House and Senate on a regular basis as part of our oversight responsibilities. This constitutional structure should not be superseded by these so-called czars which have grown enormously under this administration.

In making this argument, let me say that this argument has nothing to do with Carol Browner and her qualifications. It is not an attack on her. It is an attack, quite frankly, on the concept of these multitude of czars and the fact that they are an end run around the constitutional process by which top Cabinet and other officials of any administration are confirmed by the Senate and regularly come before the House and Senate as part of our oversight process.

We all know this particular administration has developed an unprecedented number of these so-called czars. We have seen a dramatic increase in this phenomenon. Politico wrote that President Obama "is taking the notion of a powerful White House staff to new heights" and that he is creating "perhaps the most powerful staff in modern history." Specifically, the President has created 18 new czar positions, and I want to focus on those 18 positions.

This czar concept is obviously very general and somewhat undefined. What I am talking about are those 18 positions because none of those positions are established by statute. Congress has not authorized or established any of those positions, No. 1; No. 2, none of those individuals have come before the

Senate for confirmation; and No. 3, none of those positions preexisted this administration. As I said a while ago, this has raised concerns among a number of Senators and certainly among the American people.

As I began my remarks, I added as coauthors of this amendment Senators GRASSLEY, BUNNING, ROBERTS, and BROWNBACK. In addition, the distinguished Senator from Maine, Ms. COLLINS, who chairs the relevant authorization committee, has expressed grave concern about this same phenomenon and, in fact, has another amendment about this very issue. Unfortunately, that amendment is going to be struck down as legislating on an appropriations bill. But she has expressed concern. She spearheaded a letter signed by herself and Senator ALEXANDER and others which she sent to the President.

In addition, and this is very important, this has been a bipartisan concern. Going back to February of this year, the distinguished Senator from West Virginia, Mr. BYRD, wrote the administration expressing strong and grave concern about the constitutional implications of all of these czars. Again, the 18 I am talking about are not created by statute, have not been confirmed by the Senate, and never existed prior to this administration. Also, within the last 2 weeks, Senator FEINGOLD, in addition, has expressed strong and serious concern about exactly the same issue and has written to the administration.

The purpose of my amendment is to say quite simply that when we have an agency, when we have a department that is led by a Senate-confirmed appointee, we shouldn't have a so-called White House czar ordering that appointee or ordering that agency or that department to do things, particularly when that White House czar is not an office created by law through Congress, is not a Senate-confirmed position, and did not exist in any form or fashion prior to this administration.

In terms of my specific amendment, I have chosen to focus on the Assistant to the President for Energy and Climate Change, commonly known as the White House climate change czar, for one simple reason: First, she is among this 18 never created by statute, never confirmed by the Senate, never existing prior to this administration, and she is clearly in a very powerful position—apparently giving orders to Senate-confirmed appointees such as the head of EPA. Of course, the EPA is governed by this appropriations bill now on the floor, so that is why I chose to focus on this particular czar position.

Clearly, this particular czar meets all of those criteria which give rise to my concerns. The President himself, when he appointed this czar, said, "She will be indispensable in implementing an ambitious and complex energy policy."

In addition, there have been several media reports about her dominant stature and dominant role in these sorts of

considerations. The Wall Street Journal, for instance, on September 11 of this year, reported:

Ms. Browner helped broker a fuel-standards deal between the administration and automakers earlier this year and has been a conspicuous presence in climate negotiations with Congress. Energy Secretary Steven Chu, meanwhile, has been largely tied up administering billions of dollars in stimulus projects. Ms. Browner, through a spokesman, declined to comment.

Also, Mary Nichols, the head of the California Air Resources Board, and Carol Browner were key in crafting a plan to impose the first-ever national carbon limits on cars and trucks.

On May 20, the New York Times reported the following:

In an interview yesterday, Nichols said Browner quietly orchestrated private discussions from the White House with auto industry officials.

The obvious question this gives rise to is, What about the head of the Senate-confirmed Energy Department? What about the head of the EPA, Senate confirmed? Those folks seem to be shoved to the side, and this new super agency head, a super Cabinet Member seems to be playing a far more dominant role in key issues that are clearly under the purview of the Energy Department and the EPA. Again, this gives rise to serious constitutional concerns. A number of Senators, Republicans and Democrats, have expressed these concerns—Senator COLLINS, Senator BYRD, Senator FEINSTEIN, Senator ALEXANDER. So this is a germane limitation amendment that goes absolutely to the heart of the matter: Should these czars, positions never created by Congress or by statute, never confirmed by the Senate, never existing prior to this administration—should these czars have a role that is more significant than Senate-confirmed Cabinet Secretaries or agency heads?

Again, I have very carefully crafted an amendment to go specifically to this point. Let me read it word for word. It is not long.

None of the funds made available by this Act may be obligated for the purpose of departments or agencies funded by this Act and led by Senate-confirmed appointees implementing policies of the Assistant to the President for Energy and Climate Change (commonly known as the "White House Climate Change Czar").

It does not say you cannot implement policies of the President of the United States. Obviously, the President is elected by the people and the President obviously ranks higher than the head of EPA or anyone else. But it does say the head of EPA, a Senate-confirmed position, should not be ranked below some so-called czar, a position never before created by Congress, never confirmed by the Senate, never existing prior to this administration.

I encourage all my colleagues to stand up for the rights and the proper constitutional role of the Senate. We play a vital role, particularly with regard to Presidential appointments be-

cause only the Senate has advice and consent powers. I urge my colleagues to stand up for that constitutional role, to preserve that vital constitutional role, and not to allow so-called White House czars to be an end-run around it and to minimize that role in a significant way.

This is a significant constitutional issue, it is a significant bipartisan issue, and I urge support of my amendment.

I yield the remainder of my time.

The PRESIDING OFFICER. The Senator from California is recognized.

Mrs. FEINSTEIN. Mr. President, I rise to oppose the amendment offered by the Senator from Louisiana. Over the past several weeks we have seen issues raised with increasing frequency and volume around the use of the word "czar" by the Obama administration.

I do believe it is unfair to suggest that the White House has a climate czar directing EPA's actions behind the scenes. I do not believe that is true. Effectively, the title "czar," as we all know, does not exist. The current Assistant to the President for Energy and Climate is there to serve as an adviser to the President and to Administrator Jackson on energy and environmental issues. She also coordinates the work of multiple Cabinet level agencies on one of President Obama's key policy priorities—clean energy and jobs that are essential for long-term economic growth.

In a way, this is becoming quite political because it is not unusual for a President to have high-level staff members in the White House who help to coordinate policy issues that touch a number of Federal agencies. We have heard a lot about it. What we do not hear is that President Bush had 47 such advisers for other issues. We Democrats did not make a huge issue about it. So I have a hard time understanding, with all of the concern over climate change and the rapidity with which it is moving, that a Special Assistant to the President who was head of the EPA during the Clinton administration is somebody who is spurious. She is steeped in this. She can give the President good advice. He wants her to be an assistant. So I do not understand quite why she is being picked on.

I still believe the day-to-day work of protecting the environment is very much driven by Administrator Jackson and the EPA staff. I have met with the Administrator. I spoke with her on the phone this morning. I read into the RECORD a letter she wrote yesterday. She is very much hands-on. So I think all of the energy going into these attacks ought to be put into perspective, and that perspective is that the former President of the United States had 47 special assistants. We didn't make a big deal of it. So I do not understand why this one position is now taken and an amendment is there to eliminate it.

I urge a "no" vote on the Vitter amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from Louisiana is recognized.

Mr. VITTER. Mr. President, I want to very briefly rebut some of the arguments of the distinguished Senator from California. First of all, in her last sentence she characterized the amendment as an amendment to eliminate the position. Of course it does not eliminate the position in any way.

She said earlier that Carol Browner does not tell EPA what to do. If that is the case, then this amendment will not have to change anything she does or how she operates and we should all come together to support the amendment to help allay concerns of the public. The amendment does not prohibit her from advising the President. The amendment does not prohibit her from coordinating multiagency meetings. The amendment is very clear, and it simply prohibits her from ordering around the EPA, which has its own Senate-confirmed head.

Again, I underscore the fact that this amendment is very carefully and narrowly written and does not prevent any of the legitimate advisory responsibilities that Senator FEINSTEIN has discussed.

I yield the floor.

The PRESIDING OFFICER. The Senator from California is recognized.

Mrs. FEINSTEIN. Perhaps I can engage the Senator from Louisiana. Candidly, I do not understand the wording of the amendment. Let me read it. You have read it, and I appreciate that. It does not make sense to me. Here is how it reads.

None of the funds made available by this Act may be obligated for the purpose of departments or agencies funded by this Act—

So none of the funds may be obligated for the purpose of departments or agencies funded by this act— and lead—

It says “lead” but led, I think that is a misspelling—

by Senate-confirmed appointees, implementing policies of the Assistant to the President for Energy and Climate Change.

I don't know what that means on its face.

Mr. VITTER. I would be happy to explain through the Chair what it means. The agency I have in mind, which is funded by this act and led by a Senate-confirmed position, is EPA. So it simply means that EPA cannot use any of its funds to implement orders, policies, from Carol Browner—the White House czar's policies. If the President wants to direct them, obviously the President outranks the head of EPA. But a White House czar, in a position not created by Congress, not confirmed by the Senate, never existing prior to this administration, should not be giving orders to a Senate-confirmed Cabinet Member.

The PRESIDING OFFICER. The Senator from California is recognized.

Mrs. FEINSTEIN. Mr. President, Carol Brown's title is not czar, it is Assistant to the President. The President has chosen to appoint an assistant to

assist him in evaluating, I assume, various issues pertaining to climate change. It is a complicated subject. She has experience. She has been in government. She has served as head of a department. But the actual policies come over the signature of the Administrator of the EPA.

What you are saying is, essentially, then, the President cannot have any special assistant for the purpose of coordination, asking questions, informing, helping produce—it does not make sense to me. I think on its face it is not clear.

The PRESIDING OFFICER. The Senator from Louisiana is recognized.

Mr. VITTER. Mr. President, to wrap up, my amendment says none of that. My amendment does not prevent this climate change czar from informing and assisting the President. My amendment does not prevent her from convening multiagency and multidepartment meetings. My amendment doesn't say any of that and doesn't prevent any of that. It simply prevents her from ordering the EPA, headed by a Senate-confirmed appointee, to do certain things.

With that, I yield the floor.

The PRESIDING OFFICER. The Senator from California is recognized.

Mrs. FEINSTEIN. If I may, I would like to respond to that. Let me give an example. The CIA is headed by a Senate-confirmed Director, Leon Panetta. He carries on policies from the National Security Council led by General Jones, a nonconfirmed official. Does the Senator from Louisiana believe that the National Security Adviser to the President should not have any role in intelligence and national security matters? What is sauce for the goose is sauce for the gander.

Mr. VITTER. Through the Chair, my answer is no, I don't believe that. My amendment has nothing to do with that, and, by the way, that position is created by statute.

The PRESIDING OFFICER. The Senator from Tennessee is recognized.

Mr. ALEXANDER. If I may, I know the Senator from Missouri is waiting to speak because he has an important meeting to go to. But if I could take 2 minutes, I think the Senator from Louisiana is making a point that concerns not just him but a number of us in the Senate on both sides of the aisle. Maybe the best way to suggest that is this way.

No. 1, the focus should be on the 18 new czars appointed by this President who were not confirmed, never have existed before, and the number of them.

No. 2, it was not the Republican side of the aisle that raised these concerns first. Perhaps this would best express the concern that many of us have. It was offered by Senator BYRD, senior Member of the Senate, the constitutional conscience of the Senate, who in a letter on February 23 said—this was a letter to President Obama—

The rapid easy accumulation of power by White House staff can threaten the constitu-

tional system of checks and balances. At the worst, White House staff have taken direction and control of problematic areas that are the statutory responsibility of Senate-confirmed officials.

That would be exactly the point in terms of an environment or energy czar and energy or environment Secretary.

As Presidential assistants and advisers,

Senator BYRD goes on to say—

these White House staffers are not accountable for their actions to Congress, to cabinet officials, and to virtually anyone but the President. They rarely testify before Congressional committees—

Et cetera.

Then, Senator COLLINS, on behalf of six Senators, wrote the President a very respectful letter focusing on the 18 new czars who had been appointed by the President simply asking what their authorities and duties are, how they are appointed, whether they are willing to testify, whether they would consult with us. Senator FEINGOLD, the Democratic chairman on the constitution subcommittee, has expressed his concern and indicated he might hold hearings.

I think Senator VITTER is selecting a single example of this unusual number of new czars and raising the question of the constitutional checks and balances that is the same issue that Senator BYRD and Senator FEINGOLD and many of the rest of us raised.

The PRESIDING OFFICER. The Senator from Missouri is recognized.

Mr. BOND. Mr. President, through the Chair, I thank my colleague from South Dakota, Senator THUNE, for allowing me to speak for a minute. We agreed to do that rather than to offer amendments that I intended to propose to this bill. I want to make sure everybody understands a concern that Senator THUNE, many others, and I have; that is, the U.S. Environmental Protection Agency's potential efforts to push through back-door carbon regulations which they cannot achieve legislatively on the Senate floor.

EPA, over the next several years, may attempt to impose trillions of dollars in new energy taxes that will kill millions of jobs. Of course they will say that is not their intent. They want to control climate. But that will be the impact of regulations they could issue over the next few years to control carbon emissions.

Experts have told us the House-passed Waxman-Markey legislation would kill 2.4 million American jobs and impose new energy taxes on the American people. Even President Obama has previously confirmed that under his plan for carbon emission mandates, electricity prices will “necessarily skyrocket.”

“Necessarily skyrocket.” Those are the President's words. In the EPW Committee, I presented information from the Missouri University Food and Agricultural Policy Research Institute which determined that the Waxman-Markey legislation would raise farm production for an average family-run

commercial production farmer who grows corn and soybeans by about \$11,000 in 2020 and rising to over \$30,000 by 2050.

In this time of suffering, when so many people are out of work and so many family budgets are stretched thin, I cannot, in good conscience, stand by and remain quiet when there is a potential that such new energy taxes would be imposed on American families, farmers, and workers. It is no wonder the Senate is pausing before we jump off the cliff.

Senators, especially from manufacturing and the coal-dependent heartland where I am from, know how much this bill will punish the Midwest, South, and Great Plains. This spring, EPA began the process to start limiting carbon emissions through regulations, and they will do it through expensive plant-by-plant command-and-control regulations, not a cap-and-trade system.

Some say we could limit this problem by not regulating small emitters. But that is no different than Waxman-Markey, which already exempts small emitters. Thus, similar to Waxman-Markey's national energy tax, regulations that exempt small emitters would still impose a national energy tax and kill millions of jobs. Every family will be hit by higher electricity prices when they go after the large electricity-producing companies.

They will face more money for heating, more money for gasoline, more money for diesel fuel—if you are on the farm—more money for almost everything they buy that is produced with energy, which is just about everything that is not in the IT world, although there will be costs there too.

Businesses will face large increases in backdoor costs put on them by higher prices they must pay, even if they fall below the threshold. These costs, the backdoor impact of these costs, will be felt on families, on workers who can lose their jobs.

That is why I proposed two amendments to prevent EPA from imposing backdoor carbon regulations when they result in lost American jobs or raise costs unacceptably for farmers. I was gratified when the Senate earlier passed a version of my jobs amendment during the budget debate. But the leaders on the majority side stripped the job protection out of the bill, leaving workers vulnerable again.

They again, during this debate, will not allow us to protect workers from job-killing carbon proposals, but we will continue to educate the American people on how much they will suffer under proposed carbon legislation and regulation.

I have to add one last word about my friends and majority colleagues, Senators KERRY and BOXER. There continue to be reports that their bill will not include, in writing, before anybody votes on it, crucial sections on how they would distribute their program carbon allowances.

This, regrettably, would hide, not only from us but from the American people, the true costs of the energy tax they propose to impose.

If my Senator friends from Massachusetts and California believe truly in what they are doing, they should not hide the provisions from us. They should give us the time and the American people the time they need to determine the bill's impact.

With millions of jobs on the line and trillions of dollars in tax increases at stake, the American people deserve no less. I call on my colleagues to stand for the suffering people of America who are burdened already by energy costs and could pay much more. I call on people who may be affected to let their Members of Congress know how they feel.

Nobody is going to put out a mandate saying we cannot encourage them to speak. Nobody, no czar is going to come down and say: You cannot express your opinion. I have expressed mine. I have found a lot of people—almost everybody I talk to who raised the subject in my State of Missouri agrees.

I yield the floor.

The PRESIDING OFFICER (Mr. BROWN). The Senator from California.

Mrs. FEINSTEIN. I move to table the Vitter amendment No. 2549. I ask for the yeas and nays.

Mr. President, I withdraw that request.

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

Mr. THUNE. Mr. President, I wish to speak in support of an amendment that was offered earlier today, actually it was filed, I think it was attempted to be called up by Senator MURKOWSKI. The Democratic majority objected to getting a vote on that amendment, which, I think, suggests they do not want to have a vote on that amendment. Frankly, I can see why.

From what I hear about the whole debate on climate change and cap-and-trade legislation that has passed in the House, it will not be voted on in the Senate this year. The reason it will not be voted on is because there are a lot of people in this Chamber who, I think, do not want to have that vote because they know it is a bad vote for them to make.

Fear not, EPA has come to the rescue of people who want to see a lot of this stuff accomplished but do not want to have to make a tough political vote on it. So what we are now faced with is the Environmental Protection Agency deciding they are going to regulate carbon emissions under the Clean Air Act and moving forward with the regulations to do that.

The Murkowski amendment would essentially prevent funds from being used to do that. It weighs in favor of having Congress deal with this very complex, very weighty, very consequential, and very costly issue to the American people.

This legislation, as we all know, would increase energy prices, cost us

jobs, be unfair to entire regions of the country, mine included, enlarge an already bloated bureaucracy in Washington, DC, and put our Nation at a certain economic disadvantage.

I have been skeptical of that controversial legislation that has passed the House, the cap-and-trade bill over there, for some time, for the reasons I have mentioned.

Additionally, I think it is fair to say there would be very little environmental benefit derived from that legislation, were it enacted, without binding, enforceable commitments by China, by India, and other developing countries that are now significant sources of carbon emissions.

I find it disappointing that in the middle of this important debate the administration wants to use the back door—issuing regulations to cap carbon dioxide under the Clean Air Act because they cannot get a Waxman-Markey type climate bill through the front door.

Instead, the relevant committees of this body and the Senate as a whole should be able to consider whether now is the right time for a new massive energy tax disguised as an EPA regulation.

During the previous administration, the EPA had published an Advanced Notice of Proposed Rulemaking that showed just how impractical it would be to regulate carbon dioxide and other greenhouse gases under the Clean Air Act.

These onerous regulations covered homes, schools, churches, hospitals, small businesses and potentially even small farms with livestock.

Under the Clean Air Act, the primary mechanism for regulating carbon emissions would be a fee placed on each ton of covered pollutant emitted above a certain threshold.

This fee, if applied to carbon emissions, is nothing more than a tax on energy that would have severe consequences as our economy struggles to recover from a long recession.

While the Bush administration regulations never made it past an initial draft, the Obama EPA is moving quickly to finalize an endangerment finding and regulate carbon dioxide emissions.

In April 2009, the EPA issued a draft endangerment finding that linked emissions from motor vehicles to an endangerment of human health.

The comment period has closed on this draft endangerment finding, and when the EPA issues a final ruling it will trigger an array of regulations under the Clean Air Act.

These command and control regulations will have far reaching consequences for our economy at a time when we can least afford it.

According to media reports, EPA will eventually propose regulations for not just mobile sources, but stationary sources that emit over 25,000 tons of carbon dioxide.

The first round of regulations on stationary sources would cover approximately 13,000 facilities in the United States.

These include powerplants, large manufacturing facilities, refineries, fertilizer manufacturers, and a long list of other facilities that are critical to the health of our economy.

In South Dakota, these regulations would place a tax on powerplants, ethanol refineries, and even our largest public university.

And we need to remember that these companies will pass these new costs on to you and me. Now is an especially bad time to saddle the American people with what is in effect a gigantic new energy tax that would cause electricity, gasoline, and home heating costs to skyrocket.

Additionally, pending the outcome of the final endangerment finding, the EPA might be legally bound to regulate all sources that emit over 250 tons of carbon dioxide.

If this statutory threshold of the Clean Air Act is enforced, over 1 million carbon-emitting entities would be faced with a new tax, including commercial buildings, churches, homes, schools, restaurants, and manufacturing facilities both big and small.

Regulation of carbon dioxide is far too important for EPA and the administration to craft expensive, cumbersome, top-down regulations under the Clean Air Act.

Republicans in the Senate know this, Democrats in the Senate know this, the EPA knows this and the White House knows this.

Last year, Congressman JOHN DINGELL said that EPA greenhouse gas regulations would lead to "a glorious mess." He continued by stating that "As a matter of national policy, it seems . . . insane that we would be talking about leaving this kind of judgment, which everybody tells us has to be addressed with great immediacy, to a long and complex process of regulatory action."

Congressman DINGELL said it best when he concluded that carbon regulation under EPA had "the potential for shutting down or slowing down virtually all industry and all economic activity and growth."

According to an OMB memo associated with EPA's endangerment finding, "Making the decision to regulate CO<sub>2</sub> under the [Clean Air Act] for the first time is likely to have serious economic consequences for regulated entities throughout the U.S. economy, including small businesses and small communities."

Representative COLLIN PETERSON, chairman of the House Agriculture Committee, noted in a recent op-ed that EPA regulations of greenhouse gas emissions would result "in one of the largest and most bureaucratic nightmares that the U.S. economy and Americans have ever seen."

Senator MURKOWSKI and I have filed an amendment to the fiscal year 2010 Interior and Environment appropriations bill that would prohibit the EPA from moving forward with regulations on carbon dioxide emitted from stationary sources for 1 year.

This amendment is not intended to impact the recent announcement from EPA and the Department of Transportation regarding new tailpipe emission requirements for new cars and light trucks.

Additionally, this amendment is not intended to impact the regulation of other greenhouse gasses, such as hydrofluorocarbon carbons, which are also included in the proposed endangerment finding.

This amendment would simply delay the expensive, top-down regulation of carbon emissions from thousands if not 1 million stationary sources in the United States.

For those Senators who wish to regulate carbon emissions through a cap-and-trade system, I encourage you to support this amendment as well. You should be supporting this amendment.

This amendment is not about whether carbon dioxide emissions should be regulated or whether the Federal Government should take any action to reduce carbon emissions. Rather, this amendment is about the process of regulating carbon dioxide emissions.

Should regulations as far reaching and expensive as taxing carbon dioxide be determined by EPA bureaucrats behind closed doors? Or should carbon regulations be openly debated on the floor of the U.S. Senate?

The Murkowski amendment gives the Senate a clear choice.

Constituents, through their elected representatives, should have a voice in that debate. If carbon dioxide regulations moved through the EPA unchanged, the American people would be deprived of their opportunity to be heard on this very important subject. Meanwhile the cost of gasoline, food, and manufactured goods will skyrocket. I urge colleagues on both sides to acknowledge the extremely dangerous consequences of allowing the administration to unilaterally regulate carbon dioxide under the Clean Air Act. I understand the Murkowski amendment will not be allowed to be voted on. I believe the regulations that amendment addresses should be delayed until Congress has the opportunity to debate the consequences. I will continue to work with Senator MURKOWSKI and other colleagues, families, and small business, to make them aware of what the EPA intends to do by regulation.

In addition to speaking on the Murkowski amendment, as I have filed an amendment which is similar, I ask unanimous consent to call up my amendment and ask that it be made pending.

The PRESIDING OFFICER. Is there objection?

Mrs. FEINSTEIN. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. THUNE. Let me briefly speak to the amendment because it simply addresses this subject in a slightly different way. It is clear the majority does not want to have a vote on either

the Murkowski amendment or my amendment because they get at the fundamental issue which is whether we are going to have a debate in Congress about regulating CO<sub>2</sub> emissions or whether we will allow an administrative agency, the EPA, to do that for us. I understand my amendment, which has now been objected to, will not have a vote. We know where the votes are on this. But like the Murkowski amendment, what my amendment is designed to do is to shed daylight on harmful regulations that are taking shape behind the closed doors of the EPA. My amendment is designed to give our constituents a greater say in climate change regulations.

The amendment is also designed to force the EPA to consider the dramatic impact these new Clean Air Act regulations on carbon dioxide will have on electricity and gasoline prices. If these regulations move forward, I am concerned that many families, especially those who rely on coal-generated electricity, will see skyrocketing electricity bills. I am also concerned for families and truckdrivers who could see gasoline and diesel prices go up. EPA regulation of CO<sub>2</sub> would amount to a tax on millions of working-class families.

During debate on the climate change bill, proponents of cap and trade claimed that lower income families will be made whole by giving local distribution companies free allowances to meet the new carbon regulations. Aside from whether this mechanism would actually limit the impact on working families, it is clear such a safeguard is simply not possible under the Clean Air Act. Carbon regulations under the Clean Air Act would effectively be a huge new tax on electricity and gasoline prices paid by families and small businesses.

Additionally, new taxes under the Clean Air Act would apply to oil and ethanol refineries. In South Dakota, we produce approximately a billion gallons annually of ethanol. If the EPA moves forward with carbon caps under the Clean Air Act, 12 ethanol plants in South Dakota will be subject to this new tax. Additionally, we have a large soybean processing facility hoping to soon produce biodiesel that would also be covered. Not only will these costs be passed on to consumers in the form of higher prices at the pump, but the new regulations will be a major setback to renewable fuel production. In the end, the energy security benefits of domestic renewable fuel production will be negatively impacted by these new regulations.

My amendment 2540 asks EPA to consider the costs and the adverse impacts these regulations will have on the economy before moving forward with an endangerment finding.

It is clear that neither the Murkowski amendment nor mine will be voted on. This issue is not going away. The EPA is moving forward. The House has acted on this issue. The Senate



doesn't want to take the hard votes on this so they have punted it to the EPA. The EPA is now moving forward by regulation to do what Congress doesn't have the courage or the will to do, and that is to have a debate about the relative costs and, perhaps, benefits of climate change legislation. It is wrong for us to allow the bureaucracy at the EPA to move forward with these regulations that could be so harmful to our economy, so harmful to jobs, so disastrous when it comes to the energy prices paid by families and small businesses.

This issue will be back. Senator MURKOWSKI will bring it back. I will bring it back. Others of my colleagues who care about the impact of this particular regulation on small businesses and families will be back to debate the issue even though the Democratic majority will not allow us to get a vote today.

I yield the floor.

The PRESIDING OFFICER. The Senator from Louisiana is recognized.

Mrs. FEINSTEIN. Mr. President, I know the Senator from Louisiana wishes to speak in morning business, which is fine. I wonder if I could make one brief announcement. Members are interested in bringing this bill to a conclusion. There are a number of amendments that were listed in the consent order. I ask that Members come to the floor to call up their amendments shortly. Senator COBURN has a number, Senator REID, Senator COLLINS. Senator ENSIGN has a motion to recommit. If these Members could come to the floor and call up their amendments, it would be appreciated. We would be able to, hopefully, conclude the bill.

Mrs. BOXER. Will the Senator yield for a question?

Mrs. FEINSTEIN. I certainly will.

Mrs. BOXER. I am here to make a few comments addressing the points raised by Senator THUNE and Senator MURKOWSKI. They were going to offer an amendment.

Mrs. FEINSTEIN. The Senator has an hour.

Mrs. BOXER. I won't be taking that. At what point would the Senator like me to use the time?

Mrs. FEINSTEIN. I think directly following Senator LANDRIEU.

Mrs. BOXER. That is fine. And how long is Senator LANDRIEU speaking?

Ms. LANDRIEU. Ten minutes.

Mrs. BOXER. I ask unanimous consent that I be recognized following Senator LANDRIEU.

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

The Senator from Louisiana.

Ms. LANDRIEU. I appreciate the leadership of the Senators from California and Tennessee, trying to move this important appropriations bill through the process. As we heard this morning, there are lots of important issues pending. I came to speak for a few minutes not about a pending amendment but about an issue bubbling up and brewing in a fairly significant way that we will have to address

sometime soon, not necessarily on this bill today, not necessarily through an amendment process to the Interior appropriations, but a program that is in the Interior appropriations bill that is screaming for attention. That is the program having to do with the management of wild horses. It is not a major issue in all 50 States, but it is a big issue to a handful of western States and of interest to several of us in this body.

Let me thank Senator FEINSTEIN and her staff for the leadership they are providing in helping us shape policy. She has been extremely attentive over the last several months. I thank her. I acknowledge the interest of former Senator Salazar, now Secretary of Interior, and his top leadership. They have a tremendous amount of issues before them, issues that will take a lot of their time. For them to make this a priority because some of us have asked them to, I acknowledge that and thank them, all the assistant secretaries and staff from the Interior Department who are working on this.

There are two aspects to this important issue. One involves the fiscal element which taxpayers are alarmed about. The wild horse program, because of its mismanagement and poor, old-fashioned way of operating, is chewing up or taking up about three-quarters of the budget of the Bureau of Land Management. From a fiscal perspective and a financial management perspective, it is crying out for reform.

On the other hand, there is the view of the inhumaneness of some of the practices going on that also cries out for attention. I come to speak briefly about both.

As to the big picture, at the turn of the century, we had about a million wild horses in the territory of the United States. It is sad, from the perspective of most people, that we are now down to 66,000 wild horses and burros basically forced, through policies developed in the 1970s, to stay in relatively small places, grouped in a few States, most notably the States of Nevada, Wyoming, and California, and a few other western States. We also are down to a few herds of horses. The reason I believe this is important not only to western States or ranchers or landowners or humane societies and others is because for the American people generally, the idea of wild spaces with wild horses is something that is part of our heritage. We want to make sure that heritage is not lost, that we are being responsible in terms of the way the land is being used for multiple purposes and, from the perspective of horse advocates, that the horses themselves are being treated well.

None of that is now being done in the way that most people would appreciate or would be satisfied with. There have been any number of studies I will submit for the record. Most recently, the Congressional Research Service, as well as the Government Accounting Office, suggested major changes to the

program. I am going to go through a few possible options. One is the creation of several public/private sanctuaries. This has been suggested by a few fairly high-profile individuals. The idea has merit. We are working with a variety of groups, along with the Department, to think about the possibility of creating public/private partnerships, large sanctuaries, maybe 500,000 or a million acres, where thousands of wild horses could not only roam freely in a healthy way but could potentially become ecotourist opportunities for some of the States and communities, as it would be an attraction that could potentially make money and attract people to some of the western areas or, for that matter, rural areas in other parts of the country.

There is the possibility of making some smart investments to step up some of the adoption programs that might work. There are any number of scientific and new technologies that can be brought to bear in terms of breed management, reproductive issues that could help us to get a much more cost-effective, sane, and humane approach to this problem.

I wanted to let the managers of this legislation know that while we will not have an amendment at this time on the Interior bill, I am looking forward to working with members of the Energy Committee who have jurisdiction over this matter to review in detail a bill that has come over from the House, the ROAM Act, by the chairman of that subcommittee, whom I commend for taking the committee's time, Congressman RAHALL, who sent the bill over here to the Senate. As we begin to discuss the ways that bill could potentially be modified, working with the Department of Interior to find a long-term solution, one that is cost effective, one that is humane, and one that honors the great history of wild horses, not just pleasant to look at but helped us to settle the West, helped us to open transport and commerce for the Nation, have carried us into war, into battle, helped to feed and clothe this Nation in our history, needs a bit more attention than what they are getting right now.

In conclusion, there was a disturbing roundup conducted not too long ago—just a few weeks ago—and I thank the advocates who brought this to my attention and commit to them to continue to work until we find a better way forward; again, a way that is good for the wild horses, that honors our heritage but is also very respectful of these Western lands and the ranchers who have multiple uses of this property.

I am certain in the Nation God has bequeathed to us we can find enough space for everyone if we keep an open mind. I know the Senator from Tennessee would agree with that; that if we work hard enough, we can find some common ground solutions to this issue.



I thank the Chair and yield the time. I understand my colleague from California is here to speak on a different issue.

The PRESIDING OFFICER. The Senator from California is recognized.

Mrs. BOXER. Mr. President, thank you very much.

I am on the floor, along with Senator WHITEHOUSE—there may be some others—to respond to the remarks made by Senators MURKOWSKI and THUNE regarding an amendment they very much wanted to put before this body. That amendment, simply stated, would stop the Environmental Protection Agency from enforcing the Clean Air Act as it relates to the pollutant carbon.

Some of the things they said are so reminiscent of what was said before the Clean Air Act passed, that: Oh, this is going to be a terrible thing for our people; and the same thing that was said when the Clean Water Act was passed: Oh, this is going to be a burden on business. I have to say to this body, the day we turn our back on these landmark environmental laws is the day the health of our people will suffer. We do not want that to happen.

I wish to be clear, I know this amendment will come back again and again. I know there will be attacks on the Clean Air Act and the Clean Water Act. That is an attack on our families. It is particularly an attack on our children and on our vulnerable senior citizens and our citizens who may have disabilities and who are ill. I will fight it with every ounce of my strength every time it rears its ugly head in this Chamber.

The interesting thing is, most of these environmental laws started with a Republican President named Richard Nixon. What happened to the days when environmental laws were supported on both sides? Those days appear to be gone.

What I would like to do is—I am going to yield up to 20 minutes to the Senator from Rhode Island. He is so eloquent on this point. Before I do, I wish to place some letters in the RECORD.

One letter is from the Environmental Protection Agency, saying they would have a very difficult time making sure the air was clean if that Murkowski amendment had been offered and passed and become law.

Interestingly, we have a letter from the Alliance of Automobile Manufacturers, also opposing that Murkowski amendment.

We have two more letters to put in the RECORD—and this just happened in 24 hours—one from a coalition made up of the Alliance for Climate Protection, Center for American Progress Action Fund, Center for Auto Safety, Center for Biological Diversity, the Clean Air Task Force, Clean Water Action, the Defenders of Wildlife, Environment America, the Environmental Defense Fund, League of Women Voters of the United States, National Audubon Society, the Natural Resources Defense Council, Oceana, the Sierra Club,

Southern Alliance for Clean Energy, Southern Environmental Law Center, and Union of Concerned Scientists—all saying they oppose this amendment, which concerns not enforcing the Clean Air Act as it relates to carbon dioxide.

Lastly, we have a very well put together letter by the National Wildlife Federation, in which they quote a poll that says 75 percent of Americans believe our government should, in fact, regulate global warming pollution, which, of course, is mostly carbon.

Mr. President, I ask unanimous consent those letters be printed in the RECORD.

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

UNITED STATES ENVIRONMENTAL  
PROTECTION AGENCY,  
Washington, DC, September 23, 2009.

Hon. DIANNE FEINSTEIN,  
U.S. Senate,  
Washington, DC.

DEAR SENATOR FEINSTEIN: Thank you for your letter about Senator Lisa Murkowski's Amendment Number 2530 to H.R. 2996, the Department of the Interior, Environment, and Related Agencies Appropriations Act. As you noted in your letter, Senator Murkowski's amendment would prohibit the Environmental Protection Agency from using any funds made available under the Act to take any action that would have the effect of making carbon dioxide a pollutant subject to regulation under the Clean Air Act for any source other than a mobile source.

You asked me what the practical impact would be if Congress enacted Senator Murkowski's amendment. Perhaps the most striking impact would be to make it impossible for the Environmental Protection Agency to promulgate the light-duty vehicle greenhouse-gas emissions standards that the agency proposed on September 15, 2009. Because of the way the Clean Air Act is written, promulgation of the proposed light-duty vehicle rule will automatically make carbon dioxide a pollutant subject to regulation under the Clean Air Act for stationary sources, as well as for light-duty vehicles. The only way that EPA could comply with the prohibition in Senator Murkowski's amendment would be to not promulgate the light-duty vehicle standards.

As you know, promulgation of EPA's light-duty vehicle greenhouse-gas emissions standards is an essential part of the historic agreement that President Obama announced earlier this year with the nation's auto-makers, the State of California, the Department of Transportation, and EPA. That agreement attracted broad, bi-partisan support. The joint DOT-EPA standards are projected to save 1.8 billion barrels of oil over the life of the program, which is twice the amount of oil (crude oil and products) imported in 2008 from the Persian Gulf countries, according to the Department of Energy's Energy Information Administration Office. Additionally, the standards are projected to help save consumers more than \$3,000 over the lifetime of a model year 2016 vehicle and reduce approximately 900 million metric tons of greenhouse gas emissions. Enactment of Senator Murkowski's amendment would pull the plug on those extraordinary accomplishments.

Sincerely,

LISA P. JACKSON.

SEPTEMBER 24, 2009.

Hon. DIANNE FEINSTEIN,  
U.S. Senate,  
Washington, DC.

DEAR SENATOR FEINSTEIN: We are writing regarding Senator Murkowski's Amendment

Number 2530 to H.R. 2996, the Department of the Interior, Environment, and Related Agencies Appropriations Act. As manufacturers, we are sympathetic to the thrust of Senator Murkowski's amendment that the Congress—and not simply EPA acting under the provisions of the current Clean Air Act—should determine how best to reduce U.S. greenhouse gas emissions economy-wide.

However, the amendment raises additional issues that must be considered where complicated and interconnected environmental and legal issues are at stake. We are concerned that due to the complex interactions among regulations under the various sections of the Clean Air Act, the amendment may impact significantly pending regulations in the mobile source sector—despite language in the amendment that would appear to leave the sector unaffected. In a letter to Senator Feinstein dated September 23, Administrator Jackson stated EPA's interpretation that the Murkowski amendment as filed would "make it impossible for the Environmental Protection Agency to promulgate the light-duty vehicle greenhouse-gas emissions standards that the agency proposed on September 15, 2009."

While the author of the amendment appears not to intend this outcome, we feel compelled to express our concerns. It is critical that the national program for regulating greenhouse gas emissions from autos be finalized early next year. Failure to do so would subject automakers to a patchwork of conflicting state and federal regulations.

Therefore, we respectfully oppose the adoption of the Murkowski amendment as written to H.R. 2996.

Sincerely,

DAVE MCCURDY,  
President & CEO, Alliance of Automobile Manufacturers.

MICHAEL STANTON,  
President & CEO, Association of International Automobile Manufacturers.

SEPTEMBER 24, 2009.

DEAR SENATOR: We are writing in opposition to Senator Murkowski's revised appropriations amendment (No. 2350) to the FY 2010 Interior Appropriations bill, H.R. 2996, which concerns carbon dioxide pollution and the Clean Air Act.

The filed amendment's spending limitation would go well beyond blocking the Environmental Protection Agency (EPA) from curbing carbon dioxide pollution from power plants, refineries, and other big "stationary sources." It also would block EPA from implementing the Supreme Court's landmark decision in *Massachusetts v. EPA* by curbing carbon pollution from cars and trucks. If this amendment passes, EPA could not issue the historic consensus standards that the President announced in May with the support of the auto makers, the UAW, states, and the environmental community. Here is why:

The first sentence of the amendment says: "No action taken by the Environmental Protection Agency using funds made available under this Act shall have the effect of making carbon dioxide a pollutant subject to regulation under the Clean Air Act . . . for any source other than a mobile source. . . ." This is a reference to Section 169 of the Act, which says that every new or modified major stationary source needs to install best available control technology (BACT), considering costs, for each pollutant "subject to regulation under this chapter," i.e., under the Clean Air Act.

When EPA issues final vehicle carbon dioxide standards under Section 202 of the Act as

planned next March, carbon dioxide will automatically become a pollutant “subject to regulation” under Section 169. From that point on, new or modified major stationary sources will need to install BACT for carbon dioxide, just as they currently do for other dangerous pollutants. This is automatic; there is no way around it without blocking the vehicle rules. Since the Murkowski amendment would bar any action that has the effect of making carbon dioxide “subject to regulation” under Section 169, EPA would be barred from issuing the vehicle standards.

This is why EPA Administrator Lisa Jackson said yesterday that the amendment would be “a death knell to the historic agreement between the President and automakers to increase gas mileage and reduce emissions from cars and trucks.”

Congress should not take any action that would undo the progress already made on carbon pollution from motor vehicles.

Later paragraphs of the revised amendment attempt to limit other collateral damage done by the amendment. But those provisions cannot overcome the effect of the amendment's first sentence.

We believe common ground can be found to ensure that the Clean Air Act's stationary source requirements apply only to power plants and other big sources, not smaller sources, and to incorporate this approach in comprehensive energy and climate legislation. But it cannot be accomplished through this rider.

The Murkowski amendment would only move us farther from, not closer to, a bipartisan consensus on comprehensive clean energy and climate legislation that the Senator says she seeks. We strongly urge you to oppose Senator Murkowski's amendment as well as any other amendments to the Interior Appropriations bill that would delay America's progress toward a clean energy economy that would create jobs, increase America's energy security, and cut pollution.

Alliance for Climate Protection, Center for American Progress Action Fund, Center for Auto Safety, Center for Biological Diversity, Clean Air Task Force, Clean Water Action, Defenders of Wildlife, Environment America, Environmental Defense Fund, League of Women Voters of the United States, National Audubon Society, Natural Resources Defense Council, Oceana, Sierra Club, Southern Alliance for Clean Energy, Southern Environmental Law Center, Union of Concerned Scientists.

NATIONAL WILDLIFE FEDERATION,  
NATIONAL ADVOCACY CENTER,  
Washington DC, September 24, 2009.

DEAR SENATOR: National Wildlife Federation asks you to oppose Amendment 2530, sponsored by Sen. Murkowski, on HR 2996 (the Fiscal Year 2010 Interior and Environment appropriations bill).

America and the world are poised to take long overdue action to reduce global warming pollution. As President Obama said this week in a climate address to the United Nations, there are “no excuses for inaction. . . . we don't have much time left.” At this historic juncture, Senators should not hit the “snooze button” to delay enforcement of the Clean Air Act and extend the government's long nap on global warming. Year after year, Congress has debated whether or not to act on global warming, but little has been done. Over the past two decades, as the impacts of warming became increasingly severe and the scientific warnings increasingly urgent, U.S. emissions of global warming pollution increased 17%.

National Wildlife Federation, which represents over four million members and sup-

porters, and Americans across the nation strongly and overwhelmingly support action by the Environmental Protection Agency. A recent Washington Post poll found that 75% of Americans believe the government should regulate global warming pollution from power plants and factories.

Amendment 2530 has been revised from earlier drafts and now has a fatal flaw that would extend the amendment's damage beyond what is intended, undoing the recent progress made by automakers, environmental groups and the Obama administration to reach agreement on reducing vehicle emissions. The regulation of a pollutant under the Clean Air Act for vehicles automatically triggers regulation of stationary sources. By blocking action on stationary sources, the amendment would block the Environmental Protection Agency from implementing the new vehicle tailpipe standards as well.

The Clean Air Act has a strong and proven track record of cleaning the air we breathe while allowing our economy to prosper. The Supreme Court has spoken clearly on the government's neglected responsibility to address global warming under the Clean Air Act. And the Environmental Protection Agency is already taking commonsense steps to meet the requirements of the Clean Air Act, focusing on the biggest corporate polluters and limiting the reach of any new regulations.

We appreciate Sen. Murkowski's commitment to advance global warming legislation in Congress, and look forward to pursuing that common effort with her and other Senators this year. But we strongly oppose this amendment.

Please support action on global warming and vote “no” on Murkowski Amendment 2530.

Sincerely,

LARRY J. SCHWEIGER,  
President and CEO.

Mrs. BOXER. So here we had a situation where I am very pleased the rules of this Senate did not allow this very dangerous amendment to be brought before the body. We would have talked about it for days because, before I would allow a vote on that, I would want to make sure every single Senator understood it is a repeal of the Clean Air Act through the backdoor, even after the Bush Supreme Court said the Clean Air Act covers carbon and greenhouse gases.

With that, Mr. President, I yield 20 minutes to the Senator from Rhode Island.

The PRESIDING OFFICER. The Senator from Rhode Island is recognized.

Mr. WHITEHOUSE. Mr. President, first, let me thank my distinguished Environment and Public Works Committee chairman, Senator BOXER, for her passionate defense of this statute, which has improved the quality of life and the quality of our air for a generation now of Americans against this assault. I appreciate that she has given me a few moments to discuss the amendment the Senator from Alaska wanted to offer. I know it was not offered, but, nevertheless, I feel we need to respond, given the message that amendment sends to this body, to the Nation, and to the world regarding America's position on the need to curb global warming and our move toward a clean energy economy.

This amendment would have tied the hands of the Environmental Protection Agency at the very time we need its help to protect the American public from the dangers of climate change—dangers to America's public health, to our national security, and to our economy.

A little history is in order here.

In 2007, the U.S. Supreme Court overrode the Bush administration and ruled, in a case called *Massachusetts v. EPA*, that the Clean Air Act requires the Environmental Protection Agency to regulate greenhouse gas emissions as pollutants, if the Agency determined that greenhouse gases posed a danger to public health, and the Court further obliged the EPA to go ahead and make that determination, yes or no.

The Bush administration, of course, did everything in its power to avoid the duty ordered by the Supreme Court, and it was only this April that the EPA, under Administrator Jackson, finally issued its proposed endangerment finding. The finding, unsurprisingly, acknowledged what every reasonable scientist—in fact, every reasonable person—has known for years: That carbon dioxide and other so-called greenhouse gas emissions cause our planet's atmosphere to warm and pose a threat to the public health.

The conclusion that these gases should be regulated under the Clean Air Act logically and inevitably followed, as required by law, from the determination that these pollutants threaten public health. Thankfully, this administration has already begun this important work. Senator MURKOWSKI's amendment would have required EPA to take what is called a timeout while Congress crafted a legislative solution to global warming. Unfortunately, time is not on our side as we race to protect our planet from the effects of carbon pollution.

Just yesterday, our President spoke before the United Nations about the challenges to all nations from unchecked global climate change and the opportunities we have to revive the world economy through the advancement of clean energy and clean energy jobs. The world community needs the United States to be a leader in this effort, and the world is watching our actions closely.

President Obama pledged that our steps so far—investments in alternative energy, efficiency measures, tougher fuel standards—and our steps to come “represent an historic recognition on behalf of the American people and their government.” He said:

We understand the gravity of the climate threat. We are determined to act. And we will meet our responsibility to future generations.

Forcing the EPA to take a timeout now would have sent exactly the opposite message; would tell the world we do not truly care about climate change; that we are not ready to step up, let alone lead; would say we would prefer to leave a polluted world to our

children and grandchildren, a world far worse off than the world our parents and grandparents left to us. Any timeout now would have damaged our international progress and our leadership.

Moreover, a timeout of the sort proposed in the Murkowski amendment would have hurt our legislative efforts. Supporters of the timeout idea profess to want a legislative solution to address climate change. Well, maybe. But doing so would have set back that very goal.

To the extent some of the big polluters are working with us in this legislative process, it is because they feel the hot breath of the future on their necks, and they know they had better participate or be left to their fate. Give them an artificial reprieve from those consequences—real consequences of science, of fact, of law, and of nature—and their motivations would change. Delay would become their friend, indeed their purpose, because of the artificial, false status quo that a timeout would create for them.

Let me tell you how these polluters affect Rhode Island, my home.

Let's start back in 1972, when EPA authorized the use of tall smokestacks instead of emissions limits. By the mid-1970s, four different circuit courts of appeal had ruled that the Clean Air Act required real emissions controls and not just increased stack heights. A tall smokestack only curbs local emissions, but it spreads the poisons widely.

In 1977, Congress enacted section 123 of the Clean Air Act, which barred the construction of smokestacks taller than called for by good engineering practice. Notwithstanding, Midwestern powerplants continued to increase the height of their stacks. The average smokestack height increased from 200 feet tall in 1956 to over 500 feet tall in 1978. In 1970, there were two smokestacks in the United States taller than 500 feet. By 1985, 180 smokestacks stood taller than 500 feet. Twenty-three of these were over 1,000 feet. Once you get over 1,000 feet tall, you actually have to put that smokestack on the aviation safety maps because it becomes a hazard to aviation. Local interests, of course, were happy because less of the smokestack-emitted poisons fell locally and more were spread abroad.

What did this mean for downwind States, such as my State of Rhode Island? Well, all other things being equal, the taller the stack, the farther the poisons travel. According to a 2001 report by the Clean Air Act Task Force entitled "Power to Kill: Death and Disease from Power Plants Charged with Violating the Clean Air Act," pollution spewed from just 51 plants has shortened the lives of as many as 9,000 people nationwide annually, including about 1,500 to 2,100 people in our downwind States such as Rhode Island.

These plants have also caused tens of thousands of asthma attacks each year and hundreds just in Rhode Island. This is just from 51 plants. Physicians for

Social Responsibility has estimated that all coal plants in the United States together cause about 23,600 premature deaths and 554,000 asthma attacks each year.

The Centers for Disease Control tells us that between 1980 and 1995 the incidence of childhood asthma increased over 100 percent—the increase of childhood asthma more than doubled—from 3.6 percent to 7.5 percent of all children.

By 2005, nearly 9 percent of all children were reported to have asthma. In African-American children, the rate soared to 19.2 percent—nearly one in five African-American children.

Massachusetts, Maryland, and my State of Rhode Island—all downwind States—were among the five States with the highest incidence of asthma. The Rhode Island Lung Association estimates that 15,000 children—15,000 children in my State of less than 1 million population—have asthma. Nationally, every year more than 40 kids 4 years old and under will die from asthma. Another 115 kids 5 to 15 years old will die, and nearly 400 more age 15 to 34 will die every year. This is what upwind polluters have helped cause.

When I was attorney general for the State of Rhode Island, I joined EPA's lawsuit against American Electric Power for its illegal modification of 16 plants. In 2008, the utility company settled the lawsuit by installing billions of dollars of pollution-control equipment which slashed NO<sub>x</sub> and SO<sub>2</sub> emissions by 813,000 tons each year—813,000 tons of pollution each year. American Electric Power also paid a \$15 million penalty, nearly five times what ExxonMobil has paid so far for the Exxon Valdez oil spill in 1990, and it invested another \$60 million in environmental mitigation projects. So don't tell me things can't be done.

But in Rhode Island, the danger continues, and still every summer in Rhode Island the morning radio announces several days that are unsafe air days, when infants and seniors and people with breathing difficulties are told they should stay home, that they should stay indoors because the summer air in Rhode Island is not safe, and one of the prime reasons it isn't safe is because we are downwind. So don't expect a lot of sympathy from me for these polluters, with their belching smokestacks, that want a free pass to endanger the public, timeout or not.

Here is a little description of how tall some of these stacks go. The tallest building is Willis Tower in Chicago. A lot of its radio towers are on the top, but it is still a heck of a big building. The Empire State Building is 1,250 feet. The Washington Monument is 555 feet. The Statue of Liberty is 305 feet. In Marshall, WV, there is a smokestack 1,204 feet tall. In Rockport, IN, there is a smokestack 1,038 feet tall. In Jefferson, OH, there is a smokestack exactly 1,000 feet tall. I don't know whether that has to go on the aviation safety maps. That is just at the boundary.

What these things do is they solve the local problem of pollution by pushing the poisons so far up into the atmosphere that they don't fall in West Virginia, in Indiana, and in Ohio, but they move elsewhere and they land often in Rhode Island, and we face the health consequences every day. So if anybody is looking for a sympathetic ear for these powerplants, they have come to the wrong place if they have come to Rhode Island.

Today, we are facing perhaps the greatest environmental threat of our time: Global climate change triggered by increased concentrations of carbon dioxide in our atmosphere. We have supersaturated the atmosphere with carbon dioxide, and it is having an effect. Coal-fired powerplants share much of the blame. Forty percent of all carbon dioxide emissions come from coal powerplants. And the polluters will fight—they are fighting—any effort to control their carbon dioxide emissions. The polluter opponents of climate change who are resisting our change to a clean energy economy are strong and wealthy, and they will stop at nothing. We have even recently seen forged letters to Congress opposing climate change legislation in the names of groups that never authorized the letters.

Just like the polluters fought the Clean Air Act in the past, just like the polluters built taller stacks rather than making what comes out of the stacks cleaner, just like the polluters manipulated their flunkies in the Bush administration, today the polluters wanted a timeout. They may say they support a legislative solution to climate change, but if they could fool us so that we defunded and stopped and weakened all of the other available tools for pollution control, that would not help in passing a climate bill. That would give those polluters every incentive in the world to defect, to delay, and ultimately to defeat our efforts to move this country toward a clean energy economy, to stop subsidizing their pollution of our air, and our efforts to start solving this great problem of our day. To protect ourselves, we have to keep all of our tools available, all options for curbing greenhouse gas emissions working to protect us.

I thank the chairman very much for yielding me this time, and I look forward to working with her as we continue to find ways to support this legislation.

I yield the floor.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. Mr. President, I wish to thank the Senator from Rhode Island. He gets us to where we need to be, which is focusing on what happens to our people when we walk away from protecting them from pollution.

I know Senator BROWN is in the chair. I wanted to share with him the fact that he knows well that after the Cuyahoga River caught fire in Ohio in 1969 and many of our lakes and rivers

appeared to be more like sewers, the committee, which I now chair so proudly and on which Senator WHITEHOUSE sits, responded by enacting the Clean Water Act. That was 1972. I don't know if Senator BROWN was born yet. The fact is, that incident of a river catching fire really caught the attention of the people of this Nation. Whether it was our water or our air or endangered species, we decided to take control of our communities, of our health, of our environment.

There is a lot about America that makes us proud. There is a lot about America that makes us great. I believe one of our values is caring about the health of our families. I thought Senator WHITEHOUSE was very clear that we are not just debating a regulation on page 4 or 5 or 20 or 50. We are talking about the ability of our kids to breathe the air. We are talking about the ability of this planet to survive without the ravages of global warming, which the Bush administration's CDC told us would have unbelievable effects on the health and safety of our people.

The laws we passed are the landmark laws. So therefore I just want to be put on record, along with Senator WHITEHOUSE, that if this amendment that wasn't offered today comes back in any other form, we are going to have to open up the debate pretty wide—pretty wide—because a repeal of an environmental law can't be done on an appropriations bill. In essence, when you don't enforce a law—that is what the Murkowski amendment would have done—when you don't enforce it, it is the same as not really having it. But you don't have to look in the eyes of your constituents and say: Oh, by the way, today I repealed the Clean Air Act. What you say instead is: Today I fought to have a pause—no enforcement. Well, let me tell my colleagues, when that child gets asthma, she is not going to ask her mom: Did I get asthma because there was a pause in the Clean Air Act or because they repealed the Clean Air Act? That child will get asthma. I swear to my colleagues that I am not going to let more kids get asthma, not on my watch. It is wrong. It is wrong.

Here is the great news. The great news is, if we decide to be the leader in this clean energy revolution, we will see our people get healthy. We will see millions of jobs created. We will move off of these dirty energy sources. We will create American jobs, 21st-century jobs, building wind turbines, installing solar panels, producing a new fleet of electric cars, hybrid vehicles. We see it in Ohio already where they are building solar panels. This is the one area of growth.

We are having a tough time in our State—people laid off, terribly high unemployment rate. The stimulus is helping us. We are getting some jobs back, but we are suffering. The one area of growth, I say to the Chair, 125,000 new green jobs that can't be taken away. You can't take a job of putting a solar

rooftop on a home in Los Angeles or Riverside or San Bernardino or San Diego or Akron, OH—you can't have that person in China putting on a solar rooftop. They have to be here. These are good jobs. That is what we ought to be doing, not repealing the laws that protect the health of our citizens but trying to figure out a way to work together to have a bill that will create these new clean energy jobs, that will protect our kids from carbon pollution, and that will make sure the ravages of global warming won't occur.

At the end of the day, our competitiveness depends on how we face this challenge. I believe Thomas Friedman got it right. If you haven't read his book "Hot, Flat, and Crowded," I think you should read it because he is so eloquent on the point. He is not on the defense on this, he is on the offense. He says that if we don't grab this mantle of leadership on clean energy, then other countries will grab it and they will create the technologies, they will create the jobs, and we will fall behind.

America is a leader. We are not a follower. We will have many more opportunities to debate this in the future, but, my goodness, if we are facing legislation that does not move us forward but takes us back to before Richard Nixon was President by not enforcing the Clean Air Act—I have heard of the party of no, but this is the party of yesterday if those are the kinds of amendments we are going to face, dangerous amendments that will hurt the health of our children.

So I wanted to make sure that America takes control of its energy future and that it doesn't cower in the corner and repeal laws that protect our citizens, landmark laws such as the Clean Air Act. I am so glad that today we avoided having to have this long debate. I am glad this amendment was disallowed because it doesn't belong on an appropriations bill. It is a repeal of the Clean Air Act. Let's face it, you don't do that in 15 minutes on the floor of the Senate and call it a timeout. Call it whatever you want, but when you tell an agency: Don't enforce the law that protects the health of our children and our families, that is a repeal through the back door.

So I thank you very much for the time. I know I have additional time. I will not be using it. I yield back the remainder of my time.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. ALEXANDER. Mr. President, in just a few minutes, the Senator from Maine will have the floor. Senator FEINSTEIN has asked those Senators who have amendments which are part of the unanimous consent agreement to come on over and call them up. I think Senator COBURN is probably coming following Senator COLLINS from Maine.

I listened carefully to Senator WHITEHOUSE and to the distinguished chairman of the Environment and Public Works Committee. I wish to make an observation, if I may, which will

take only 3 or 4 minutes, not to prolong the debate.

First, what Senator THUNE and Senator MURKOWSKI were saying is that the question of climate change is so important that we in the Congress ought to deal with it, not the Environmental Protection Agency. That is the point of the amendment.

Second, I am one Senator who believes we need to deal with climate change and who believes humans are contributing to it, and we need to stop stuffing so much carbon into the atmosphere. But while my friends on the other side often speak in great rhetorical flourishes about the inconvenient problem of climate change that my friend and fellow Tennessean Al Gore talks about, they are conspicuously silent about the inconvenient solution, which is nuclear power.

Even the President of the United States went to New York this week and made an entire speech talking about our commitment to climate change and lecturing the developing countries of the world about climate change when they are ahead of us on nuclear power and the President, in his entire remarks, didn't mention it once. I simply think that ought to be noted in the midst of this debate.

The largest contributors to carbon in the air are China, the United States, Russia, India, and Japan. There are 44 nuclear reactors under construction this minute, almost all of them in Asia. China has 4 reactors under construction and has announced plans for 130 more reactors. Why? Because nuclear power is carbon free. The United States hasn't built a new nuclear plant in 30 years. Russia intends to build 2 reactors a year in order to replace the 30 percent of electricity they get from natural gas so they can sell that gas to Europe at a big profit.

Japan is building two nuclear reactors a year. They derive 36 percent of their electricity from nuclear. South Korea gets nearly 40 percent of its electricity from nuclear, and they are planning 8 more reactors by 2015. India is developing thorium reactors instead of uranium. France is 80 percent nuclear and is selling electricity to Germany, which is the only major European country still renouncing nuclear power. And here we sit worried about climate change, having 104 reactors that we built before 30 years ago, which produce 20 percent of our electricity, but 70 percent of our carbon-free electricity, and the President goes to New York and doesn't say one word about nuclear power. He wants to build 186 50-story wind turbines, which will operate about a third at a time, and not at all in our part of the country, instead of taking the greatest technological advance of the last century, which we already use to produce 70 percent of our carbon-free electricity, and say let's do more of that.

I am hopeful that as this debate proceeds, the President will say let's double our nuclear production and build

100 new nuclear plants in the next 20 years. We should be able to agree on 100 new nuclear plants and electrifying our cars and trucks. If we do those two things alone, we would meet the Kyoto Protocol by 2030. But we don't hear a word about it.

Let's bring up the inconvenient problem of climate change and let's deal with it here. But let's bring up the inconvenient solution of nuclear power. As far as science goes, the chief scientist in the Obama administration, a Nobel Prize winner, Dr. Chu, says nuclear power is safe and nuclear waste—used nuclear fuel—can be safely dealt with for the next 40 to 60 years by having it stored onsite, while we have a mini Manhattan Project over the next 20 years to find the best way to recycle used nuclear fuel that doesn't produce plutonium.

This is a good debate. I am glad Senators have come to the floor to talk about this, and this is an appropriate amendment on which to have the discussion. The point of the Republican amendments were, let's do it in Congress, not the agency. If we are going to talk about the inconvenient problem, climate change—and I agree it is a problem and we need to deal with it—let's talk about the inconvenient solution, nuclear power, which today provides 70 percent of our carbon-free electricity, which is what we are debating.

The PRESIDING OFFICER (Mr. FRANKEN). The majority leader is recognized.

#### AMENDMENT NO. 2531

Mr. REID. Mr. President, I have an amendment No. 2531, and I ask that it be brought before the Senate.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Nevada [Mr. REID] proposes an amendment numbered 2531.

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

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

The amendment is as follows:

(Purpose: To make funds available for preliminary planning and design of a high-performance green building to consolidate the multiple offices and research facilities of the Environmental Protection Agency in Las Vegas, Nevada)

On page 183, line 14, before the period, insert the following: “: Provided, That, at the discretion of the Administrator of the Environmental Protection Agency, from the funds included under this heading, \$500,000 may be made available for preliminary planning and design of a high-performance green building to consolidate the multiple offices and research facilities of the Environmental Protection Agency in Las Vegas, Nevada”.

Mr. REID. Mr. President, I appreciate my friend from Maine allowing me to speak for a couple minutes prior to her being recognized.

The amendment I have called up allows, not directs, the EPA Administrator to use \$500,000 of the funds provided in the bill for preliminary planning and design to work to consolidate

the many agency offices and labs in Las Vegas into one high-performance green building.

It doesn't make a lot of sense to continue spending money on aging facilities spread across several buildings in need of repair and rehabilitation, particularly with the leases that are not far from ending. Current costs associated with these facilities' leases and their operation cost over \$5.5 million annually.

Consolidation would improve administrative efficiencies and reduce agency energy, water, and other costs over time. Developing a more precise estimate of total savings would be part of the preliminary planning effort my amendment authorizes.

The people in the offices and labs I think could be consolidated would also greatly benefit from their being able to work more closely together, given their mission and activities. These include the agency's National Exposure Research Laboratory, the Emergency Response Team—when something bad happens with a nuclear device, they are able to move on that—the Radiation and Indoor Environments National Laboratory, the Financial Management Center, the Human Resources Office, the National Environmental Research Center, and the Environmental Services Division's various laboratories and Technical Reference Center.

As we know, the Energy Independence and Security Act of 2007 and the Recovery Act strongly direct the Federal Government to be a leader, not a follower, in adopting green building technologies. EPA should be at the top of the list, given its important role, and I think its labs and facilities in Las Vegas should serve as a shining example of environmental leadership that saves the Federal Government and taxpayers money.

I ask unanimous consent to have printed in the RECORD following my statement a letter to the Appropriations Committee regarding this request, in compliance with paragraph 9 of rule XLIV of the Standing Rules of the Senate.

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

#### U.S. SENATE,

Washington, DC, September 22, 2009.

Hon. DANIEL K. INOUE,  
*Chairman, Committee on Appropriations, U.S. Senate, Washington, DC.*

Hon. DIANNE FEINSTEIN,  
*Chairwoman, Subcommittee on Interior, Environment, and Related Agencies, U.S. Senate, Washington, DC.*

Hon. THAD COCHRAN,  
*Vice Chairman, Committee on Appropriations, U.S. Senate, Washington, DC.*

Hon. LAMAR ALEXANDER,  
*Ranking Member, Subcommittee on Interior, Environment, and Related Agencies, U.S. Senate, Washington, DC.*

DEAR CHAIRMAN INOUE, VICE CHAIRMAN COCHRAN, CHAIRWOMAN FEINSTEIN, AND RANKING MEMBER ALEXANDER: I am writing to request that the Interior Appropriations bill for fiscal year 2010 include the discretion for the Administrator of the U.S. Environmental

Protection Agency to use up to \$500,000 from the amounts identified for buildings and facilities for the purpose of preliminary planning and design work to consolidate the Agency's Las Vegas offices into one high-performance green building.

Such a consolidation would save taxpayers money, reduce energy and water use, and improve administrative efficiency. The current facilities used by the EPA offices and laboratories are in need of rehabilitation and repair and their leases expire in the near future, so it is essential that the Agency begin making plans for their future use.

Consistent with paragraph 9 of Rule XLIV of the requirements of the Standing Rules of the Senate, I certify that neither I nor my immediate family has a pecuniary interest in the congressionally directed spending items I have requested. I further certify that I have posted a description of the items requested on my official website, along with the accompanying justification.

Thank you for your attention to this request

Sincerely,

HARRY REID,  
*United States Senator.*

Mr. REID. Mr. President, on the University of Nevada-Las Vegas campus we have EPA buildings. They are so old. We have been talking about doing something about them for decades. They have been so terribly important over the years with what has been going on at the Nevada Test Site and Yucca Mountain. The leases are about to run out. It is not fair to the Federal Government or the university. It would save the government huge amounts of money and it would be the right thing to do. This would be the beginning of accomplishing what EPA wanted to do for decades. I hope that Senators will look favorably on this amendment.

The PRESIDING OFFICER. The Senator from Maine is recognized.

Ms. COLLINS. Mr. President, what is the pending amendment?

The PRESIDING OFFICER. The Reid amendment.

#### AMENDMENT NO. 2498

Ms. COLLINS. Mr. President, prior to Senator REID offering his proposal, the pending business before the Senate was an amendment I offered earlier this week, which was designed to promote better transparency, accountability, and oversight within our government.

I am deeply disappointed that a procedural tactic will be invoked to prevent an up-or-down vote on my amendment, which is designed to bring the proliferation of czars under the normal process.

The amendment I proposed would have ensured that the 18 new czar positions appointed by this administration could be held accountable to Congress and to the American people. The proliferation of czars under the current administration to manage some of the most complex and important issues facing our country has created serious problems in oversight, accountability, and transparency. It is of great concern to me that these positions circumvent the congressional requirements for

oversight. They circumvent the constitutional process by which the Senate is supposed to give advice and consent to major policy positions within our government.

I have a list of the 18 new czar positions that have been created by this administration. I ask unanimous consent that it be printed in the RECORD.

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

#### CZARS

##### POSITIONS IN THE EXECUTIVE OFFICE OF THE PRESIDENT (10)

Central Region Czar: Dennis Ross. Official Title: Special Assistant to the President and Senior Director for the Central Region. Reports to: National Security Adviser Gen. James L. Jones.

Cybersecurity Czar: TBD. Reported Duties: Will have broad authority to develop strategy to protect the nation's government-run and private computer networks. Reports to: National Security Adviser Gen. James L. Jones and Larry Summers, the President's top economic advisor.

Domestic Violence Czar: Lynn Rosenthal. Official Title: White House Advisor on Violence Against Women. Reported Duties: Will advise the President and Vice President on domestic violence and sexual assault issues. Reports to: President Obama and Vice President Biden.

Economic Czar: Paul Volcker. Official Title: Chairman of the President's Economic Recovery Advisory Board. Reported Duties: Charged with offering independent, non-partisan information, analysis and advice to the President as he formulates and implements his plans for economic recovery. Reports to: President Obama.

Energy and Environment Czar: Carol Browner. Official Title: Assistant to the President for Energy and Climate Change. Reported Duties: Coordinate energy and climate policy, emphasizing regulation and conservation. Reports to: President Obama.

Health Czar: Nancy-Ann DeParle. Official Title: Counselor to the President and Director of the White House Office of Health Reform. Reported Duties: Coordinates the development of the Administration's healthcare policy agenda. Reports to: President Obama.

Senior Director for Information Sharing Policy: Mike Resnick. Reported Duties: Lead a comprehensive review of information sharing and lead an interagency policy process to identify information sharing and access priorities going forward. (Perhaps performing functions statutorily assigned to the Program Manager for the Information Sharing Environment). Reports to: Unknown.

Urban Affairs Czar: Adolfo Carrion Jr. Official Title: White House Director of Urban Affairs. Reported Duties: Coordinating transportation and housing initiatives, as well as serving as a conduit for federal aid to economically hard-hit cities. Reports to: President Obama.

WMD Policy Czar: Gary Samore. Official Title: White House Coordinator for Weapons of Mass Destruction, Security and Arms Control. Reported Duties: Will coordinate issues related to weapons of mass destruction across the government, including: proliferation, nuclear and conventional arms control, threat reduction, and terrorism involving weapons of mass destruction. Reports to: National Security Adviser Gen. James L. Jones.

Green Jobs Czar: TBD (Van Jones—Resigned). Official Title: Special Adviser for Green Jobs, Enterprise, and Innovation at

the White House Council on Environmental Quality. Reported Duties: Will focus on environmentally-friendly employment within the administration and boost support for the idea nationwide. Reports to: Head of Council on Environmental Quality.

##### POSITIONS IN A DEPARTMENT OR AGENCY (8)

Afghanistan Czar: Richard Holbrooke. Official Title: Special Representative for Afghanistan and Pakistan. Reported Duties: Will work with CENTCOM head to integrate U.S. civilian and military efforts in the region. Reports to: Secretary of State (position is within the Department of State).

Auto Recovery Czar: Ed Montgomery. Official Title: Director of Recovery for Auto Communities and Workers. Reported Duties: Will work to leverage government resources to support the workers, communities, and regions that rely on the American auto industry. Reports to: Labor Secretary and Larry Summers, the President's top economic advisor (position is within the Department of Labor).

Car Czar (Manufacturing Policy): Ron Bloom. Official Title: Counselor to the Secretary of the Treasury. Reported Duties: Leader of the White House task force overseeing auto company bailouts; worked on the restructuring of General Motors and Chrysler LLC. Reports to: Treasury Secretary and Larry Summers, the President's top economic advisor (position is within the Department of Treasury).

Great Lakes Czar: Cameron Davis. Official Title: Special advisor to the U.S. EPA overseeing its Great Lakes restoration plan. Reported Duties: Oversees the Administration's initiative to restore the Great Lakes' environment. Reports to: Environmental Protection Agency Administrator (position is within the Environmental Protection Agency).

Pay Czar: Kenneth Feinberg. Official Title: Special Master on executive pay. Reported Duties: Examines compensation practices at companies that have been bailed out more than once by the federal government. Reports to: Treasury Secretary (position is within the Department of the Treasury).

Guantanamo Closure Czar: Daniel Fried. Official Title: Special Envoy to oversee the closure of the detention center at Guantanamo Bay. Reported Duties: Works to get help of foreign governments in moving toward closure of Guantanamo Bay. Reports to: Secretary of State (position is within the Department of State).

International Climate Czar: Todd Stern. Official Title: Special Envoy for Climate Change. Reported Duties: Responsible for developing international approaches to reduce the emission of greenhouse gases. Reports to: Secretary of State (position is within the Department of State).

Special Representative for Border Affairs and Assistant Secretary for International Affairs (dubbed "Border Czar"): Alan Bersin. Official Title: Assistant Secretary for International Affairs. Reported Duties: Will coordinate all of the Department's border security and law-enforcement efforts. Reports to: Homeland Security Secretary (position is within the Department of Homeland Security).

Ms. COLLINS. Many of the czars on the list seem to either duplicate or dilute the statutory authority and responsibilities that Congress has already conferred upon Cabinet level officials and other senior executive branch officials who go through the normal constitutional process whereby the Senate gives its consent to these nominations.

As I said when I first introduced this amendment, I do not consider every po-

sition that has been identified as a czar in various media reports to be problematic. Some of those positions are established by law. Some of them are subject to Senate confirmation. Rather, my amendment is carefully tailored so it would not cover and would not apply to positions recognized in law or subject to Senate confirmation.

For example, the proposal I have would not apply to the Director of National Intelligence, to the National Security Adviser, to the Homeland Security Adviser, to the Chairman of the Recovery Accountability and Transparency Board, or to the so-called information or regulatory czar within OMB. These positions, because they are recognized in law, or they are subject to Senate confirmation, simply do not raise the same kinds of concerns about accountability, transparency, oversight, and vetting.

Instead, my amendment has been carefully tailored to cover officials that the President has unilaterally designated as responsible for significant policy matters. It would not have covered the President's Chief of Staff, for example, and it would not cover less senior White House officials, despite some misinformation to the contrary.

Because the White House has raised so many objections to my amendment, I have offered to sit down with the White House counsel and narrow the scope of the amendment further, to address any concerns the White House might have. Unfortunately, the White House has failed to provide any modification to the text of my amendment. Instead, they said they did not want any of these officials to be called to testify before Congress.

Let me explain exactly what my amendment would have done, so you can see how modest indeed the amendment was.

The amendment simply would have required that the President certify to Congress that officials in these important positions would respond to all reasonable requests to testify before or provide information to congressional committees with jurisdiction over the issues involved.

Second, it simply would have required these officials to submit a biannual report to the congressional committee with jurisdiction, describing the activities of the official and his or her office, and any rule, regulation, or policy that the official participated in or assisted in the development of.

That is it. How can we possibly be against that kind of accountability, transparency, and oversight? It is our job as Members of Congress to conduct such oversight.

We cannot do so when the administration sets up a structure where there is an energy czar, an urban affairs czar, an environmental czar, a cyber-security czar—the list goes on and on. It creates confusion over who is in charge, who is making policy.

Let's take the area of health care. Is the top policy position in this administration Nancy-Ann DeParle, who is the



health care czar within the Executive Office of the President—a person, by the way, for whom I have the greatest respect—or is it Senate-confirmed Kathleen Sebelius, the Secretary of Health and Human Services? Who is in charge? Whom do we hold accountable?

What the President has done by creating so many czar positions within the White House that appear to duplicate the executive branch officials who are subject to Senate confirmation is to blur the lines of authority. That is not good for our system of government, and it is not in keeping with this administration's pledge to be the most transparent administration ever—a pledge for which I salute the President.

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

Ms. COLLINS. I will be happy to yield.

Mr. DURBIN. Mr. President, I would like to ask the Senator about her amendment. The first thing I would like to ask is, her amendment does not specify how many czars—I think that is the term she used on the floor—how many czars she thinks there are in the administration or what their titles are. Could the Senator from Maine tell me how many czars we are going to try to impact with her amendment?

Ms. COLLINS. I will be happy to. Mr. President, I say to my friend that I have a list of 18 positions which I have talked repeatedly about and which I have inserted into the RECORD. As I have said, I am not one who has used this term in the way some have to include individuals with broad authority across various agencies, such as the Director of National Intelligence. But that is the position that is established or recognized in law and is subject to Senate confirmation. I did not include those. In fact, in the language of my amendment, I specifically say it does not apply to positions established in law.

Mr. DURBIN. Mr. President, if the Senator will yield and share a copy of that list with me, I would appreciate it. But in the meantime, I ask the Senator, it seems that the czar watchers on her side of the aisle, Senator HUTCHISON, for example, found 32 czars when she went looking. One of the advisers to some politicians—and I will not include the Senator from Maine; she can speak for herself—the noted guru Glenn Beck has identified 32 czars as well.

I ask the Senator from Maine before we get into the propriety of her amendment under Senate rules, who is going to define who is covered by her amendment, if her colleague from Texas found 32, Glenn Beck found 32, and she found 18?

Ms. COLLINS. Mr. President, I will be glad to respond to the question of my colleague. My colleague did not have the benefit of being on the Senate floor when I first presented my amendment, and I addressed this very issue.

I was very careful in drafting this amendment to make clear that I was

not talking about positions that are recognized in law. Some of my colleagues legitimately have taken a different approach. But that is not the approach that is before the Senate now. Rather, I have taken into account the issues that have been raised by my colleagues on the other side of the aisle, such as Senator BYRD—who certainly knows more about the Constitution than I think any of us who are serving at the present time—who has expressed concerns about the proliferation of czars. I have taken into account concerns expressed by Senator FEINGOLD, by Senator FEINSTEIN. I have done a careful, narrowly tailored amendment that does not attempt to sweep in positions that are recognized in law, nor does it sweep in positions that are subject to Senate confirmation.

That is why it is so disappointing to me that my colleagues are not unanimously adopting my amendment, which it looked like they were going to do earlier this week before the White House weighed in, because I did not take a broad sweeping approach. I took a very narrow, careful approach that aimed at the promise the President talked about, the lack of oversight, transparency, and accountability.

Mr. DURBIN. If the Senator will yield further for a question, I would like to ask the Senator—I have been told that using the definition of “czar” that Mr. Beck, political adviser to some, and Senator HUTCHISON, and even you use, that under President George W. Bush, the previous Republican administration, one could characterize his officials and advisers in the Executive Office of the President and other agencies as an Afghanistan czar, an AIDS czar, a drug czar, a faith-based czar, an intelligence czar, a Mideast peace czar, a regulatory czar, a science czar, a Sudan czar, a TARP bailout czar, a terrorism czar, and a weapons czar, under the previous administration. I ask the Senator from Maine if she proposed this amendment under a Republican President who clearly had his own stable of Muscovite czars of a lot of different versions?

Ms. COLLINS. Mr. President, I, again, will be happy to attempt to clarify this issue for my colleague and friend—and he is my friend—from Illinois. I realize he has his role to play in this debate. But the fact is, he has just listed several positions that are established by law. The intelligence czar is the Director of National Intelligence, Dennis Blair. Joe Lieberman and I wrote the law that established that position in 2004, and he is confirmed by the Senate.

The regulatory czar—he is referring to Cass Sunstein in this administration and John Graham in the previous one—it is established by law. It is part of the Office of Information and Regulatory Affairs within OMB. I am not talking about those positions no matter in whose administration it is. I am talking about perhaps other positions on his list. Regardless of whose adminis-

tration they are in, I would apply the same standards.

The Senator may say why didn't I offer this amendment in the previous administration. The answer is, we did not have this proliferation of czar positions in the previous administration. But I would say to my colleagues, regardless of whether it is a Democratic President or a Republican President, a Democratic Congress or a Republican Congress, I think this is an institutional issue, and I think all of us as Members of Congress should be very concerned about organizational structures that make it impossible for us to conduct effective congressional oversight; that insulate these officials who have significant policy responsibilities from ever coming to testify, from going through the vetting and the confirmation process.

I think that is a problem regardless of who the President is, and I am not the only one who thinks it. That is why Senator ROBERT C. BYRD wrote to the White House, wrote to the President, as this press release says, questioning the Obama administration on the role of White House czar positions because, as he says:

Too often, I have seen these lines of authority and responsibility become tangled and blurred, sometimes purposely, to shield information and to obscure the decision-making process.

I am not saying this is part of a plot to obscure information, but what I am saying is we have an obligation to exercise our constitutional duties, and the proliferation of these unaccountable positions in any administration makes that impossible for us to do so.

Mr. President, if I may complete the end of my statement—before we got into this good little colloquy. And I do appreciate the opportunity to clarify whom my amendment would cover, who would be covered by it and who would not. As I said, I was willing to work with the White House to make this even clearer. My staff was here many hours last night. I had conversations with White House officials and, unfortunately, at the last moment, they decided not to try to propose revisions to the text.

I am not going to seek to overturn the Chair's ruling on this amendment which will be forthcoming, and I know how it will go. But I do think it is unfortunate that a procedural tactic is being used to block a vote on this amendment. I do want to tell my colleagues that I think this is a real issue. I am very pleased the Homeland Security and Governmental Affairs Committee, under Chairman LIEBERMAN, is going to hold a hearing to explore this issue because it does have constitutional ramifications and it does involve the balance of power between the executive and legislative branches. The ruling the Chair is going to make is not going to be the last word on this subject.

The administration needs—any administration—to fully explain the responsibilities and authorities of these



czars. Until all of these czars are made available to testify before and provide information to Congress, until Congress is fully consulted on the decisions to create these positions in the first place, I will continue to press forward on this issue.

I believe the amendment I drafted is a very reasonable, balanced one, and it would have been a significant step toward establishing an oversight structure for these positions that would provide the transparency, accountability, and oversight our Nation expects from its leaders. I am dismayed the Senate is about to choose a point of order over these principles.

**THE PRESIDING OFFICER.** The Senator from Illinois.

**Mr. DURBIN.** Mr. President, let me point out at the outset my friendship and respect for Senator COLLINS. These are terms tossed around on the Senate floor sometimes in meaningless context, but this is meaningful. We have worked together on many issues. I respect her very much and believe when she was chairman of the then Governmental Affairs Committee, later to be the Homeland Security Committee, that she did extraordinary work with Senator LIEBERMAN, particularly when it came to the creation of a new intelligence agency. After 9/11, it was one of the toughest political assignments ever given, and Senator COLLINS handled it with professionalism, in a bipartisan way. I commend her for it. I think she is exceptionally talented, and I am happy to have her as my ranking member on the Financial Services and General Government Appropriations Subcommittee where we continue to work closely together.

She raises a legitimate inquiry. The legislative branch should ask whether the executive branch has gone beyond its constitutional authority. I think it is a legitimate question. Unfortunately, before she came to the Senate floor, the waters had been muddied by statements made by our colleague, Senator HUTCHISON, in the Washington Post on September 13 as to when she went searching for czars in the Obama administration, she found 32 of them. The political wise man, Glenn Beck, found 32 as well but went on to say on his Web site—he is a major champion on this issue, incidentally—“since czar isn’t an official job title, the number [of czars in the Obama administration] is somewhat in the eye of the beholder.”

That is why this becomes a pretty difficult amendment to consider at this moment in time. The Senator from Maine has been kind enough to add a page in the RECORD that lists her findings of 18 of these so-called czars. I don’t know if others would find the same number, more or less. Whether there are 57 known czars or whether there are 18, I just don’t know.

This amendment would prohibit funds for the administrative expenses of White House advisers—and that is a term usually used by those not partial

to Russian history—unless those positions were created through express statutory authorization.

Further, the amendment requires the President to certify to Congress that the adviser will respond to all reasonable requests to testify before or provide information to any congressional committee with jurisdiction over such matter.

The adviser must give a report every 6 months, kind of a work-in-progress report, a diary of what they are doing. So in addition to working on issues such as health care reform, they need to prepare a report sent to Congress every 6 months to let us know they are showing up on time at their desks and actually doing what they are supposed to do. The President doesn’t need statutory authority to appoint advisers, and it doesn’t make sense to require an assistant to the President, who has an otherwise pretty serious workload, to fill out these reports to Congress every 6 months to make sure they are showing up as promised.

But the amendment does touch on accountability in a way that I agree with. Public officials, including those who serve at the pleasure of the President, should be responsive to congressional inquiries. That is why Senator COLLINS and I, through our appropriations subcommittee, bring in leaders from the administration. And I can’t say for certain, but I am virtually certain we have not been turned down by any at this point. The committee expects officials employed in whole or in part by the Executive Office of the President and designated by the President to coordinate policy agendas across executive departments and agencies to keep Congress fully and currently informed. We ask that of them, and so far we have received their cooperation.

Over the past several weeks, there has been this new interest in the czars and czarinas in the Obama administration, according to Mr. Beck and others. Some Members have asked serious questions about the makeup of the White House staff. The bulk of the noise being heard right now began with partisan commentators like Mr. Beck, suggesting this is somehow a new and sinister development that threatens our democracy.

Unfortunately, this czar issue didn’t start with the Obama administration. It goes back much further in history, and it certainly includes the previous Bush administration, which was not subjected to an amendment such as is being offered at this moment. Many of the officials cited by conservative commentators—and I don’t include Senator COLLINS because I haven’t seen her list of 18—are Senate-confirmed appointees or advisory roles carried over from the Bush White House. Many are advisers to the President’s Cabinet Secretaries. Many hold policy jobs that existed in the Bush administration. Some hold jobs that involve coordinating the work of agencies on President Obama’s

key policy priorities: health insurance reform, energy and green jobs, and building a new foundation for a longlasting economic growth.

I might say that in the past the same concern and furor hasn’t arisen. DARELL ISSA, a Congressman from California, was recently on FOX News and was asked what kind of investigation he had made into the Bush administration about czars, and he said he hadn’t done so. He hadn’t raised any objection, although he now thought it was a pretty important issue under President Obama. In fact, if you adhere to the definition of czar held by many Members—and I won’t include Senator COLLINS in this group but other Members in the Senate—the Bush administration had 47 czars—budget czars, faith czars, manufacturing czars, to name a few.

Many of the Members who now decry the practice have called on Presidents in the past to appoint czars. Senator ROBERT BENNETT of Utah, a friend and recognized colleague who worked hard on the Y2K concern, asked for a czar to be appointed, and he said he had worked with that person to maintain “bipartisan and across-the-government communication.” Even the ranking member of the Appropriations Interior Subcommittee, Senator ALEXANDER of Tennessee, has had words said about czars in this administration. But during remarks delivered on the Senate floor in 2003, captured in the CONGRESSIONAL RECORD, Senator ALEXANDER said, “I would welcome [President Bush’s] manufacturing job czar.” That same day in the Senate, he also expressed support for President Bush’s AIDS czar, Randall Tobias.

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

**Mr. DURBIN.** I would be happy to yield.

**Mr. ALEXANDER.** Mr. President, I would ask the distinguished assistant Democratic leader if he is aware that the manufacturing czar in President Bush’s time was appointed by the President and confirmed by the Senate and testified before the Senate? And I wonder if he is also aware that the AIDS czar was appointed by the President and confirmed by the Senate and testified before the Senate?

Senator COLLINS has been careful—I believe he is aware; I wonder if he is aware—that she is not talking about any czars whom we confirm and the President appoints and who testify, and she is only talking about the 18 new czars under the Obama administration, just as Senator BYRD did in February.

I wonder if the Senator is aware of those things?

**Mr. DURBIN.** I thank the Senator from Tennessee for the question, and I am aware of that fact, and I would respond to him, that is why I was trying to clarify how many czars are in this Muscovite conspiracy because one of his colleagues from Texas, Senator HUTCHISON, identified 32, as did Mr.

Glenn Beck, and they included 16—pardon me, 7 of these so-called czars are people who have—pardon me, 9 have been confirmed by the Senate. So it appears that some of your colleagues do not share your definition that Senator COLLINS referred to on the floor.

The point I am trying to make is that this is a legitimate inquiry, it is an important inquiry, but it has been muddled by statements made by some Members of Congress and certainly by those in the political commentary realm.

The good news for Senator ALEXANDER and Senator COLLINS and everyone else concerned about this issue is that a trusted friend and colleague, Senator JOE LIEBERMAN, chairman of the Homeland Security Committee, has promised a hearing on this issue. I know he will engage Senator COLLINS, as ranking Republican member, on it, and serious questions which have been presented will be considered by Senator LIEBERMAN. We respect him in that capacity.

So the reason I am objecting to this amendment isn't because I don't think Senator COLLINS has at least a legitimate inquiry, but I think it should be taken in the greater order of things rather than considered in this fashion on an appropriations bill.

So, Mr. President, I make a point of order that the Collins amendment, No. 2498, violates rule XVI, paragraph 4, legislating on an appropriations bill.

Excuse me, Mr. President, I missed one procedural step.

I call for regular order on the pending Collins amendment.

The PRESIDING OFFICER. The amendment is now pending.

Mr. DURBIN. Mr. President, I now make a point of order that the Collins amendment, No. 2498, violates rule XVI, paragraph 4, in that it legislates on an appropriations bill.

The PRESIDING OFFICER. The point of order is sustained. The amendment falls.

The Senator from Tennessee.

Mr. ALEXANDER. Mr. President, I thank the assistant Democratic leader for his comments, and I want to especially thank the Senator from Maine.

The Senator from Illinois suggested that the waters had gotten muddled because some of us didn't count very well in terms of the number of czars who might exist in the Obama administration. That is why we are so fortunate to have the Senator from Maine, who is always careful, always thoughtful, and always experienced. What she has done is gone back to Senator BYRD's first letter in February, in which he expressed his concern about the constitutional issues here, and then she has counted 18 new czars in the Obama administration. Her letter of September 14 to the President is limited, thoughtful and respectful, and she simply asks that the President identify the specific authorities and responsibilities of those positions, the process by which the administration examines these peo-

ple, and whether they are willing to testify before us. She is the ranking member of the committee Senator LIEBERMAN chairs and will have an opportunity during the hearings to explore this.

Some of us are concerned that the administration is too dedicated to too many Washington takeovers, and the unusual number of new czars is the most visible symbol of the large number of Washington takeovers. I think we are fortunate that we have as thoughtful a Senator as the Senator from Maine and an independent Senator from Connecticut, JOE LIEBERMAN, who will look into it. I am sure Senator BYRD will want to weigh in. Senator FEINGOLD may want to have a hearing. So we will have an opportunity to have a thoughtful resolution.

I thank the Senator from Maine for her amendment and her leadership on this issue, and I look forward to hearing more from her on it.

Madam Chairman, if I could say to the Senator from California, the Senator from New Mexico has been waiting and the Senator from Louisiana has been waiting.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. VITTER. Mr. President, I ask unanimous consent for 2 minutes of recognition before we move away from this issue.

The PRESIDING OFFICER. Is there objection?

Hearing no objection, it is so ordered.

Mr. VITTER. Mr. President, I will be brief. I wish to compliment my distinguished colleague from Maine on her amendment. It was very well tailored and very carefully put together. I do think it is a shame that it won't be able to come to any vote because of this procedural move by the assistant majority leader.

I want to underscore three points:

No. 1, maybe we can talk about some other universe when we debate the Beck amendment, but we are not debating the Glenn Beck amendment, we are talking about the Collins amendment, and we will get to vote on the Vitter amendment. What all of us have been talking about are appointees of the President whose offices were not created by statute in any way and who were never Senate confirmed.

No. 2, I also want to underscore the point that this is clearly a bipartisan concern, as evidenced by Senator BYRD's letter of February and the recent comments of Senator Russ Feingold. It is a very serious and very bipartisan concern.

No. 3, we will have an opportunity to vote on this issue today under my amendment. The climate change czar is one of those 18, and she clearly threatens to supercede and overshadow Senate-confirmed Cabinet members such as the head of EPA. My amendment is very simple. It says EPA shouldn't have to carry out orders of the climate change czar when it is supposed to be headed by a Cabinet mem-

ber, a Senate-confirmed appointee, directly at EPA.

So again I compliment the Senator from Maine on her efforts. I will certainly pledge ongoing support on the issue, including through my amendment.

I yield back my time.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. UDALL of New Mexico. Mr. President, I rise today to oppose the Murkowski amendment. The Murkowski amendment would prohibit the EPA from using funds under the Clean Air Act to deal with climate change.

I listened earlier today, and I heard the Senator from California, the chairman of the Appropriations Interior, Environment Subcommittee, speaking about the issue, and she spoke eloquently. I heard Senator BOXER, the chairman of the Environment and Public Works Committee, speaking about this issue. She also made the very strong point that this amendment would be ill-advised and irresponsible. And I rise today to speak to this amendment and to oppose it.

America and the world are face-to-face with a perfect storm—an energy crisis and a climate crisis that require a do-it-all energy policy. These two crises are closely linked, and today I would like to raise one facet of the solution: clean energy incentives.

I strongly believe we should resist efforts to block the Obama administration actions on clean energy on the fiscal year 2010 Interior and Environment Appropriations Act or other legislation, for that matter. If that were to happen, American families and the men and women in our Armed Forces would be stuck with the bill.

Concerns about the cost of the administration's actions to address our energy and climate crisis have it exactly backward. The biggest cost is the cost of inaction—costs families pay at the pump in energy bills every day; money from their hard-earned paychecks that end up in the treasuries of foreign countries or foreign oil companies, some of which are hostile to the United States. In the end, the only people who will benefit from efforts to block clean energy solutions are members of OPEC and other special interests in the fossil fuel industry.

To put it simply, our dependence on fossil fuels is a huge drag on families' pocketbooks and a clear and present danger to our national security. In 2008, American families and businesses sent \$475 billion overseas to pay for foreign oil. That works out to over \$4,000 per household in America—a massive transfer of wealth from hard-working families in New Mexico and the other 49 States to the treasuries of foreign nations. The largest consumer of foreign oil is the U.S. military, which is engaged in two major conflicts in the Middle East—an area of strategic importance largely due to its massive oil reserves.

Making matters worse, this same reliance on fossil fuels pollutes our atmosphere with toxic compounds such as sulfur dioxide, soot, and mercury, alongside greenhouse gases such as carbon dioxide. The global climate crisis is real. Strong scientific evidence shows unless we transition to clean energy sources, our home States will pay a heavy price.

In New Mexico, scientific evidence indicates more devastating forest fires, droughts, and invasive species caused by climate change.

Luckily, we have numerous cost-effective solutions at hand to address the energy and climate crisis. My home State of New Mexico and many other States across the Nation are rich in much cleaner domestic sources of energy, sources such as wind and solar, geothermal and natural gas. Several years ago, wind energy was unusual but today these projects are quite common. Wind projects create thousands of U.S. jobs in the steel, manufacturing, and construction sectors.

The United States is now installing over a gigawatt of solar power each year and there are six other gigawatts of concentrated solar power projects planned nationally, particularly in the Southwest.

U.S. natural gas reserves have also increased by 35 percent in 1 year, an increase that gives our Nation a century's worth of supply. While natural gas is a fossil fuel, it is significantly cleaner than either coal or oil, and much more abundant.

Despite these improvements, we continue to waste tremendous amounts of energy. Government and industry studies have found that the right investments could save energy and more than \$1 trillion at the same time. Energy efficiency does not mean turning down the heater in the winter. Rather, efficiency means investments in building technologies such as advanced windows, insulation, and smart electric grids that do not waste energy or money. Improving our efficiency on a major scale would also save more than 1 billion tons of greenhouse gases, proving we can address the global climate crisis without increasing costs on families.

The U.S. Supreme Court ruled that the Bush administration was required by the Clean Air Act to reduce air pollution that is causing our climate crisis, but the Bush administration failed to act. Congress should not put the Obama administration in handcuffs when the President is trying to change course and follow the law. To those who worry that the administration action could short circuit debate on these issues in Congress, nothing could be further from the truth. I agree that Congress should act and set a comprehensive clean energy incentive policy. Numerous Cabinet Secretaries from the administration have testified that they welcome congressional action to create a path forward on clean energy. For Congress to block the ad-

ministration and to fail to act itself would be the height of irresponsibility.

Our energy and climate crisis have the same root cause. The Senate should address both challenges with the same cost-effective solutions—incentives for renewable energy and energy efficiency. That is why efforts to block the Obama administration from acting on climate change are so dangerous. Such efforts continue our reliance on fossil fuels that hurt family budgets, threaten our national security, and pollute our atmosphere.

The bottom line is America needs a “do it all” energy policy, one that includes all the tools in our energy toolbox—more alternative energies and a commitment to conservation; increased domestic oil production, including offshore; investments in clean coal research and technology; and nuclear power has to be part of the mix. Energy and climate change are one of the defining challenges of our time—our perfect storm. We have the tools to fix the problem. Now we need the will to act, not to obstruct.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized.

Mr. COBURN. Mr. President, I wanted to make some comments based on the comments the Senator from New Mexico raised.

He talked about \$4,000 a year in terms of imported oil into this country and then he talked about we needed to do offshore exploration, but I note for the RECORD he voted against an opportunity to expand offshore exploration yesterday. You can't have it both ways. If we are going to get off oil and hydrocarbons, it is going to take us 25 years. But when we have an opportunity to decrease that cost of \$4,000 per family and use American oil, we do not have the same consistency as the rhetoric when it comes to the votes. I think the RECORD needs to show that although the Senator claims that, when he had the opportunity yesterday to vote in a way to expand domestic offshore exploration, he voted against that opportunity.

I wish to take this time to bring up several amendments and make them pending. I thank the chairman of the committee and staff for working with us. We will try to make this as painless as possible and do it in as short a period of time as possible, but I have been down here for the last 4 days, every day, trying to get things done and unable to get them done. So I am going to take adequate time to explain these amendments and also explain a couple of amendments I agreed not to offer but I think it pertinent the American people hear about.

#### AMENDMENT NO. 2463

First, I ask the pending amendment be set aside and amendment No. 2463 be called up.

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

The assistant legislative clerk read as follows:

The Senator from Oklahoma [Mr. COBURN] proposes an amendment numbered 2463.

Mr. COBURN. I ask unanimous consent that further 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.

#### AMENDMENT NO. 2523

Mr. COBURN. I ask unanimous consent the pending amendment be set aside and amendment No. 2523 be called up.

The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Oklahoma [Mr. COBURN] proposes an amendment numbered 2523.

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

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

The amendment is as follows:

(Purpose: To secure our borders and protect our environment)

At the appropriate place, insert the following:

#### SEC. \_\_\_\_\_. PROHIBITION ON USE OF FUNDS TO IMPEDE OPERATIONAL CONTROL.

None of the funds made available by this Act may be used to impede, prohibit, or restrict activities of the Secretary of Homeland Security on public lands to achieve operational control (as defined in section 2(b) of the Secure Fence Act of 2006 (8 U.S.C. 1701 note; Public Law 109-367)) over the international land and maritime borders of the United States.

#### AMENDMENT NO. 2483

Mr. COBURN. I ask unanimous consent the pending amendment be set aside and amendment No. 2483 be called up.

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

The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Oklahoma [Mr. COBURN] proposes an amendment numbered 2483.

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

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

The amendment is as follows:

(Purpose: To help preserve America's national parks and other public land treasures by reducing maintenance backlogs that threaten the health and safety of visitors)

At the appropriate place, insert the following:

**SEC. \_\_\_\_ . MAINTENANCE BACKLOG.**

Notwithstanding any other provision of this Act, any funds provided from the land and water conservation fund established under section 2 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601-5) to an agency under this Act for federal land acquisition shall be used by the agency for maintenance, repair, or rehabilitation projects for constructed assets.

**AMENDMENT NO. 2482**

Mr. COBURN. I ask unanimous consent the pending amendment be set aside and amendment No. 2482 be called up.

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

The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Oklahoma [Mr. COBURN] proposes an amendment numbered 2482.

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

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

The amendment is as follows:

(Purpose: To protect property owners from being included without their knowledge or consent in the Federal preservation and promotion activities of any National Heritage Area)

Beginning on page 173, strike line 1 and all that follows through page 174, line 5, and insert the following:

**NORTHERN PLAINS HERITAGE AREA,  
AMENDMENT**

**SEC. 115. (a) IN GENERAL.**—Section 8004 of the Omnibus Public Land Management Act of 2009 (Public Law 111-11; 123 Stat. 1240) is amended—

(1) by redesignating subsections (g) through (i) as subsections (h) through (j), respectively;

(2) in subsection (h)(1) (as redesignated by paragraph (1)), in the matter preceding subparagraph (A), by striking “subsection (i)” and inserting “subsection (j)”; and

(3) by inserting after subsection (f) the following:

“(g) **REQUIREMENTS FOR INCLUSION AND REMOVAL OF PROPERTY IN A NATIONAL HERITAGE AREA.**—

“(1) **PRIVATE PROPERTY INCLUSION.**—No privately owned property shall be included in a National Heritage Area unless the owner of the private property provides to the management entity a written request for the inclusion.

“(2) **PROPERTY REMOVAL.**—

“(A) **PRIVATE PROPERTY.**—At the request of an owner of private property included in a National Heritage Area pursuant to paragraph (1), the private property shall be immediately withdrawn from the National Heritage Area if the owner of the property provides to the management entity a written notice requesting removal.

“(B) **PUBLIC PROPERTY.**—

“(i) **INCLUSION.**—Only on written notice from the appropriate State or local government entity may public property be included in a National Heritage Area.

“(ii) **WITHDRAWAL.**—On written notice from the appropriate State or local government

entity, public property shall be immediately withdrawn from a National Heritage Area.”.

(b) **PROHIBITION ON USE OF FUNDS.**—None of the funds made available by this Act shall be made available for a Heritage Area that does not comply with section 8004(g) of the Omnibus Public Land Management Act of 2009 (Public Law 111-11; 123 Stat. 1240) (as amended by subsection (a)).

**AMENDMENT NO. 2511**

Mr. COBURN. I ask it be set aside and amendment No. 2511 be called up.

The PRESIDING OFFICER. Is there objection?

Mrs. FEINSTEIN. Mr. President, if I may, if the Senator would be good enough to mention the subject of the amendment as he reads the number, it would be appreciated. We could keep it straight that way.

Mr. COBURN. This is the last one. These are all in the agreement the Senator and I had that I would bring up and this is the last one.

Mr. FEINSTEIN. Good. I just want to know about which one the Senator is speaking when he is speaking.

Mr. COBURN. I will be happy to do that. No. 2511.

The PRESIDING OFFICER. The clerk will report the amendment.

Mr. COBURN. This amendment is as modified without the second degree, with agreement of the chairman of the committee, and you should have the modified amendment at the desk.

The assistant legislative clerk read as follows:

The Senator from Oklahoma [Mr. COBURN] proposes an amendment numbered 2511.

The amendment is as follows:

(Purpose: To prohibit no-bid contracts and grants)

At the appropriate place, insert the following:

**SEC. \_\_\_\_ . PROHIBITION ON NO-BID CONTRACTS AND GRANTS.**

(a) Notwithstanding any other provision of this Act, none of the funds appropriated or otherwise made available by this Act may be—

(1) used to make any payment in connection with a contract not awarded using competitive procedures in accordance with the requirements of section 303 of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253), section 2304 of title 10, United States Code, and the Federal Acquisition Regulation; or

(2) awarded by grant not subjected to merit-based competitive procedures, needs-based criteria, and other procedures specifically authorized by law to select the grantee or award recipient.

(b) This prohibition shall not apply to the awarding of contracts or grants with respect to which—

(1) no more than one applicant submits a bid for a contract or grant; or

(2) Federal law specifically authorizes a grant or contract to be entered into without regard for these requirements, including formula grants for States.

**AMENDMENT NO. 2511, AS MODIFIED**

Mr. COBURN. I ask unanimous consent this amendment be as modified, and I yield to the chairman of the committee.

Mrs. FEINSTEIN. Mr. President, with respect to amendment No. 2511, Senator COBURN and I have come to an

agreement. Therefore, there is no need for me to offer a second degree.

I ask unanimous consent that the Coburn amendment No. 2511 be modified with the changes at the desk, and that the amendment, as modified, be agreed to and the motion to reconsider be laid upon the table.

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

The amendment (No. 2511), as modified, was agreed to, as follows:

(Purpose: To prohibit no-bid contracts and grants)

At the appropriate place, insert the following:

**SEC. \_\_\_\_ . PROHIBITION ON NO-BID CONTRACTS AND GRANTS.** (a) Notwithstanding any other provision of this Act, none of the funds appropriated or otherwise made available by this Act may be—

(1) used to make any payment in connection with a contract not awarded using competitive procedures in accordance with the requirements of section 303 of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253), section 2304 of title 10, United States Code, and the Federal Acquisition Regulation; or

(2) awarded by grant not subjected to merit-based competitive procedures, needs-based criteria, or other procedures specifically authorized by law to select the grantee or award recipient.

(b) This prohibition shall not apply to the awarding of contracts or grants with respect to which—

(1) no more than one applicant submits a bid for a contract or grant; or

(2) Federal law specifically authorizes a grant or contract to be entered into without regard for these requirements, including formula grants for States, or Federally recognized Indian tribes; or

(3) Such contracts or grants are authorized by the Indian Self-Determination and Education and Assistance Act (P.L. 93-638, 25 U.S.C. 450 et seq., as amended) or by any other Federal laws that specifically authorize a grant or contract with an Indian tribe as defined in section 4(e) of that Act (25 U.S.C. 450b(e)).

The PRESIDING OFFICER. The Senator from Oklahoma is recognized.

Mr. COBURN. Mr. President, I will try to do this, to save some time, in the shortest amount of time I can. I also thank the chairman of this committee for working with me.

There are several amendments I did not offer. I want to spend a couple of minutes talking about those because I think the American people need to hear about them.

Less than a block from this building is the Belmont House. It is a foundation. It is a beautiful building. It has \$4 million in the bank, the foundation does. There is an earmark in this bill at this time of a \$1.8 trillion deficit, of a 16-percent increase in this bill. The Senator, Senator LANDRIEU from Louisiana, is sending \$1 million to that building. They have the money in the bank but we are still going to take \$1 million from our grandkids and send it there. I am not offering that amendment in conjunction with having the pleasure of the chairman consider my other amendments. But the American people need to know that kind of thing is going on. It is absolutely not indicated. Who uses that building? We do,

for fundraisers. We do for events. We do for social events. In fact, there is a high price paid when you rent it. But what we are going to do, without regard to what our fiscal situation is, is we are going to send another \$1 million as though it is a peanut and send it to that building. That is all I will say on it, but to me it is one of the reasons why this Congress, and we in particular as Members of the Senate, lack the respect of the American people.

The other amendment I am not going to offer that was objected to by the chairman of the Resources Committee is for us to know what kind of land we own. We don't know, since 2005, how much land we have or where we own it.

Supposedly the BLM puts out something. Supposedly the Geological Survey puts something out. But there is not a concise list of the land that the Federal Government owns—and it is somewhere in excess of a third of all the land of this country—and it is 650 million acres. In this bill is another \$300 million—almost \$400 million—to buy more land. At the same time, the National Park Service has a backlog of \$11 billion. We do not have one national park that does not have significant factors of erosion and dilapidation that is now putting both the employees and park visitors at risk. Yet we are going to spend \$400 million to buy more land, to require more of their services to take care of, rather than to take care of what we have. It does not fit with common sense.

There is no way the American people as a whole would embrace that kind of stupidity. Yet that is in this bill. We are going to buy more land, we are going to take more land off the tax rolls, we are going to hurt the States, we are going to limit the ability of property owners, and we are going to continue—the Park Service, this year, their backlog grew by over \$400 million.

We have the Carlsbad Caverns where we had sewage leaking into the cavern. I won't spend the time to go through the hundreds of examples the Park Service has given us, that they cannot maintain the parks because we will not send them the money to do it. We would rather spend it on an earmark or buy more land. The priorities here are amazing.

Let me talk about amendment No. 2511. I will spend a short period on it. That is the competitive bidding amendment. We have carefully crafted that with the concerns of both staff and the chairman and ranking member of this committee. What it says is we are going to use competitive bidding, much like the President campaigned, when we go to buy things that are approved in this bill. We very carefully exempted the sections of the Native Americans where their sovereignty reigns, where we would not step on their sovereignty—although I am not sure we should not require them to competitively bid, but we agreed not to do that.

Here is what we do know. If you take different branches of the Federal Government, about 5 percent of the costs are excessive because we do not have competitive bidding. If you take the Pentagon, it is about \$20 billion a year because we do not have competitive bidding. In the Interior it is much smaller. But any penny we can save, in terms of enhancing the value of the American taxpayers' dollars by saying what we buy is going to be competitively bid, we ought to do that. We ought to get the best value we can. We may not always get great value but at least we are going to have a competitive bid and we are at least going to have everybody in that who is qualified to have a shot at some of that business. So it is a "two-fer." It is, No. 1, better value for the American people but also opening up all this to everybody who has a opportunity to offer a service when the Federal Government buys it.

With that, we have an agreement and I appreciate the chairman accepting that amendment.

Amendment No. 2463 is an amendment for the public to see all the reports required by this bill if, in fact, that will not in any way compromise national security. I think we have worked out an agreement on that amendment to where that is going to be accepted. It is about transparency.

We ought to make sure the American people see what we are doing, and if we ask for a report that will not in any way endanger the security of this country that comes back to us, there is no reason the American people should not be able to see that and we make it available to them so they can make a judgment to judge us on what we are doing and whether we are responding properly to problems identified in such reports.

So I am very thankful for the chairman in terms of accepting this amendment. I look forward to her comments on it. We should do the same thing with this amendment as we did with the last one.

The PRESIDING OFFICER. The Senator from California.

Mrs. FEINSTEIN. Mr. President, I would be happy to do the same thing. If I may, Senator COBURN's amendment No. 2463, he and I have come to an agreement.

I ask unanimous consent that the Coburn amendment be agreed to and the motion to reconsider be laid upon the table.

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

The amendment (No. 2463) was agreed to.

The PRESIDING OFFICER (Mrs. MCCASKILL.) The Senator from Oklahoma is recognized.

#### AMENDMENT NO. 2523

Mr. COBURN. Madam President, I switch now to amendment No. 2523, which is a prohibition on funds being spent in this act that would actually limit the effectiveness of the Homeland Security Department in terms of securing our borders and protecting us.

This amendment basically ensures that the wilderness areas and other public lands are protected from crime and pollution. I know it is not seen that way, but what is happening is a very big and sad story about what is happening in our wilderness areas.

Border violence and trafficking is at an all-time high. Our public lands along the border are being exploited by drug and human smugglers. Wilderness concerns hinder law enforcement efforts. How do we balance properly our concerns for the environment and still secure our borders and still protect our population from both drug smuggling and human trafficking?

Wilderness areas also are being destroyed by these very smugglers because we do not allow the enforcement agencies access to be able to make a difference. We have not acted on it; we have not acted on it in this bill. We have to make sure there is the proper balance between protecting our wilderness areas and protecting our country and our citizens.

We have sought to address in the last couple of years our border security concerns by appropriating a large increase in Federal funds for law enforcement and for significant legislation to construct infrastructure along the southern border.

In the Secure Fence Act of 2006, Congress sought to ensure that the Secretary of the Department of Homeland Security was able to take the actions necessary and appropriate to achieve and maintain the operational control over the entire international land and maritime borders of the United States.

The goal of the act was to prevent all unlawful entries into the United States, including entries by terrorists, narcotics, and other contraband, except it has not had the desired impact, and in large part, to the unwelcome increase of illegal human and drug trafficking through public lands, along our southern border. So we have a conflict of desires by agencies to do their jobs.

Amendment No. 2523 would prohibit any funds from within the Interior appropriations bill to be used to prohibit or restrict the activities of Homeland Security on public lands to secure our borders. The effect of this amendment would be to ensure that DHS is able to further secure our borders from terrorists and other national security threats and protect the environment of these lands.

I know there is some concern on the other side with the language, the way we have written it. I am more than willing to work with the chairman of both the Resources Committee, Interior Committee, and the Appropriations Committee to try to put that in a way that properly balances it. I know this is a tough amendment. I do not deny that.

But when you hear the testimony—and I am going to ask that this be printed in the RECORD. This is former

Border Patrol officers and field supervisory Border Patrol agents who testified in Congress last April about what is going on in our wilderness areas.

Do you realize that these people, because we do not have law enforcement in there, they are setting fires in our wilderness areas to distract us to the fire so they can smuggle contraband and humans while we are addressing the fire?

Our wilderness areas are being defiled near McAllen, TX. It relates: When a wilderness area or refuge is established near the border, the criminal element moves in and trashes it because the restrictive wilderness or refuge status accorded to these lands effectively prevents all law enforcement from effectively working the area.

This is Border Patrol:

In other words, refuge or wilderness designation actually serves to put the environment at a greater risk of being seriously damaged and defaced. Law enforcement must have common, unrestricted, free access to all lands near the U.S. border.

He goes on to clarify that it needs to be at least 50 miles. The other thing that was especially telling and which is horrific is the comments about what is going on along Interstate 8 and Interstate 10 in Arizona: numerous reported "rape trees" have been identified in and near the current Pajarita Wilderness near the U.S.-Mexican border.

Rape trees mark the location where drug and alien smugglers habitually sexually assault and rape illegal alien females that are being brought into the United States across the Mexican border. These locations are marked by the perpetrators who prominently display and hang—

I will not use the words that he does.

the underwear of their victims on a particular tree. I visited one such reported tree on March 27, 2008, and noticed 30 sets of underwear. These rape-tree trails begin at the Mexican border and travel all of the way through the Pajarita Wilderness.

In southern Arizona we are experiencing increased incidents of wildfires from two primary sources. The first source is illegal aliens who cross into the United States illegally and start fires through carelessness. The second is from illegal aliens engaged in other criminal enterprises who start wildfires intentionally to create a diversion so they can smuggle things into or out of the United States.

You cannot deny the fact that we are having a conflict between the Department of Interior and the Department of Homeland Security in terms of law enforcement along our border. The tragedy is that the very intent of the Department of Interior to protect the environment is actually being made worse by their policy of not allowing law enforcement efforts, i.e., the Border Patrol, into those areas.

So this amendment is intended to do a couple of things. Let me talk about what the claims against this amendment are first, and that I am more than willing to try to work out a sensible agreement. What is driving me nuts is those two Departments have

not worked out a sensible agreement themselves, which we ought to have significant oversight hearings on the fact that we are having to do something that they should be taking care of.

The claim is that if this amendment passes it will devastate the environment and give the Department of Homeland Security the mandate to show no regard for the environment. Nothing can be further from the truth. The interpretation of congressional intent that we currently have has led to the destruction of much of our wilderness area because human and drug smugglers have been able to use these lands as major thoroughfares without fear of law enforcement.

Additionally, the Department of Homeland Security will still be obligated to conduct its law enforcement activities in a manner that seeks to minimize or mitigate any negative environmental impact. Do you realize in Arizona they are cutting down 150-year-old cactuses to block the road to inhibit anybody following them? And the fact that we do not have significant law enforcement, i.e., Border Patrol there, these majestic, 100-year-old cactuses, which are protected, are intentionally being destroyed to protect the smugglers.

In the past, when the Secretary of Homeland Security waived 30 environmental and other laws and regulations associated with the construction of tactical infrastructure along the southwest border in compliance with the Federal law, he still required the Department to practice responsible stewardship of natural and cultural resources.

The U.S. Customs and Border Patrol is also committed to do that. I will stop with this: I do want to have printed in the RECORD a letter from the National Border Patrol Council, which is the AFL-CIO representative of our Border Patrol agents who fully endorse this amendment because they are the people actually on the ground seeing the problem, and we are not allowing them to do their job.

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

EAGLE FORUM,  
September 23, 2009.

U.S. Senate,  
Washington, DC.

DEAR SENATOR: On behalf of the many thousands of American families we represent, I urge you to support Senator Tom Coburn's (R-OK) Secure Our Borders and Protect the Environment amendment (#2523) to the Interior Appropriations bill, H.R. 2996, currently being debated on the Senate floor.

The Coburn amendment would simply prevent any funds in this bill from going to any Department of the Interior efforts or activities to impede or stall the Department of Homeland Security's progress of the border fence or to prevent the enforcement of U.S. law on public lands near the border. Yesterday, the House passed a motion to recommit to the Santa Cruz Valley National Heritage Area Act (H.R. 324) by a vote of 259 to 167 that included this same amendment language.

In 2006, the U.S. Senate overwhelmingly passed the Secure Fence Act of 2006 by a vote of 80 to 19 to construct 700 miles of border fence between the U.S. and Mexico—even then-Senator, President Barack Obama, voted in favor of the fence. Despite the enactment of this law and billions of taxpayer dollars for law enforcement efforts, our border remains vulnerable and the increase in violence in Mexico has begun to spill over into the United States. Even worse, our national parks and other federal public lands are being easily targeted by and used as sanctuaries for illegal drug smugglers because environmental concerns limit the range of U.S. Border Patrol agents and also complicate efforts to build the barrier ordered by Congress.

Not only do these restrictions on enforcement endanger our border guards, but the increased illegal activity as a result of reduced law enforcement has led to adverse environmental impacts on these lands, including contamination of pristine areas with bio-hazardous waste and communicable diseases, contamination of water supplies for animals and local ranchers, and an increase in wildfires.

We need the Coburn amendment because it is a common-sense step in our fight against the illegal drug and human trade, to secure our border, and to restore our wilderness areas that border Mexico. I urge you to vote in favor of the Coburn amendment when it comes up for a floor vote today. Eagle Forum will score this vote, which will appear in our scoreboard, published annually, for the 1st session of the 111th Congress.

Sincerely,

SUZANNE BIBBY,  
Legislative Director, Eagle Forum.

NATIONAL BORDER PATROL COUNCIL  
OF THE AMERICAN FEDERATION OF  
GOVERNMENT EMPLOYEES, AFFILI-  
ATED WITH AFL-CIO,

September 24, 2009.

Hon. TOM COBURN,  
U.S. Senate,  
Washington, DC.

DEAR SENATOR COBURN: The United States Border Patrol is charged with the formidable task of securing our Nation's borders, and confronts numerous obstacles that hinder the accomplishment of that goal, including rugged terrain, extreme climatic conditions, an overwhelming number of people crossing the border illegally, and violence perpetrated by smugglers and other criminals. Bureaucratic regulations that prevent Border Patrol agents from utilizing vehicles and technology on public lands should be the least of their concerns, but unfortunately are not.

Your amendment to the Fiscal Year 2010 appropriations bill for Interior, Environment and Related Agencies that would preclude the use any of those funds to impede, prohibit, or restrict any activities of the Department of Homeland Security on public lands that are undertaken to achieve operational control of our borders is therefore greatly appreciated by the dedicated men and women of the U.S. Border Patrol.

Sincerely,

T.J. BONNER,  
President.

The PRESIDING OFFICER. The Senator from California.

Mrs. FEINSTEIN. Madam President, if I may say through the Chair to the distinguished Senator from Oklahoma, the manager of the amendment and I are prepared to take the amendment. Moreover, we are prepared to convene a meeting between the two Department heads, have you present, and sit down and see what we can work out.



Mr. COBURN. Well, that is perfectly acceptable to me. I want the problem solved. I think security is just as important as protecting our environment. We are not going to allow one to trump the other.

Mrs. FEINSTEIN. We will accept the amendment on both sides with the stricture I just added to it on the pending amendment.

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

The amendment (No. 2523) was agreed to.

Mrs. FEINSTEIN. Thank you, Madam President.

AMENDMENT NO. 2483

Mr. COBURN. I would next like to talk about amendment No. 2483. This is the amendment that moves the Federal Land Acquisition Fund to backlog.

There is no question my colleagues in this body know of my concern about an ever-expanding, ever-enlarging Federal role in terms of land ownership. In fact, I have had a lot of conflicts with the chairmen, whether it was a Republican chairman or a Democratic chairman, in terms of expanding the amount of property the Federal Government owns.

It is not just about expanding. When we expand it costs more money. It costs our kids more money. But in this bill, we have almost \$400 million that is going to be put in to buy more land where we cannot take care of the land that we have today.

What we know is the following: Federal land management agencies across all these different branches of government, as well as within this bill, are responsible for a large and aging number of structures. As we have continued, through the Federal Government, to consume more private land nationwide, Federal agencies have increasingly been unable to maintain the existing land holdings.

All one has to do is talk to any park ranger. Go up to the Statue of Liberty, they have an \$800 million backlog. Go to the Washington Mall, well over \$1 billion in maintaining some of our most significant structures. If you go to the Grand Canyon National Park, people are continually being limited because we can't maintain the trails and because we don't put the money in to do it. The National Park Service, which receives most of the money to buy more land in this bill, faces an \$11 billion backlog.

When I first started talking about the issue, the backlog was \$6 billion. In 4 years, we have seen the backlog with the National Park Service almost double. Although I am thankful for the increase in maintenance funds this bill does add to the national parks, it does not come sufficiently close.

What is the priority? Is the priority for the Federal Government to consume more land, restrict more access, limit the freedom of people around that land and on that land, or is it to let Americans own the land and take care of the land the Federal Government al-

ready has? It owns a third of the land. How much land is enough for the Federal Government to own? How much is enough, especially when most of the land we own we are not taking care of. We are letting it fall down. The question has to be: What are the priorities?

The committee says the priority is to buy more land. This amendment says the priority is to repair and take care of the land we have. It specifically directs this money to the National Park Service to help with a backlog of falling down structures and the increased risk of safety for both park employees and visitors.

I obviously don't have all the information the committee has, but as the Senator from New Mexico knows, I have been looking at land acquisition and land bills for the last few years. I have not been successful in slowing them down, but I think the American people need to know about this. They need to recognize that our priorities are screwed up and that, in fact, we ought to be about taking care of what we have before we add to it.

I yield the floor.

Mrs. FEINSTEIN. Madam President, regretfully, I have to oppose this amendment. The fact is, we would lose opportunities to conserve valuable lands because within national parks there are inholdings, and inholdings, when they become available—these are private properties that people own—the Federal Government buys them and adds to the public land. Let me name a few: In Georgia, I am told the Chattahoochee National Recreation Area would be involved; in many States, Civil War battlefield sites; in Ohio, the Cuyahoga Valley National Park; in the State of Washington, Mount Rainier, Olympic, and San Juan National Parks; in Texas, Big Thicket National Preserve; in Indiana, the Hoosier National Forest; in Utah, Dixie National Forest; in South Dakota, the Black Hills National Forest.

The point I wish to make is, on occasion, there are families who have large land holdings, and these are valuable, pristine land holdings. Their first preference might be to have the Federal Government buy these lands to hold them for the future and to conserve the lands. If the Federal Government can't do that, the lands go on the market, generally, for the highest and best use. With some of our prized and treasured possessions, that is not the way to go.

I will oppose this amendment. I am sure it will be in line for a vote.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. COBURN. The chairman makes my point for me. Yes, we might miss an opportunity. But we don't have the courage to put the priorities right. We are going to miss an opportunity while structures fall down at Yellowstone. That is what the choice is. We are going to take large, valuable land segments that are now paying property taxes and, because they are up for sale, we are going to spend that money rath-

er than repair Carlsbad Caverns. That is the choice. The chairman made my argument for me. We are not going to do the sensible thing.

Many of these things will come back. They are not gone forever. What we are saying is, because we don't have any limitation on what we spend or how we spend it, we therefore have no limitation in worrying about whether things fall down. The fact is, now an \$11 billion backlog, which grew \$400 million last year alone in the Forest Service, documented by the Forest Service—those are not my numbers—we are going to say these are more important now than putting back in proper order things that relate to safety or security in the national parks. I will end with the fact that if we don't do this, what we have done is earned the reputation we are garnering, that we refuse to make tough choices. Life is about tough choices. Maybe we don't get to add to one of these parks right now. But how about taking care of what we have? Why not make that a priority?

It is kind of like when your front porch is falling down and that is the only entrance to your house, you start building a garage rather than fix your front porch or you buy an extra five acres so you can have a big garden. We wouldn't do that. The American people wouldn't do that. We need to respond with some commonsense solutions. Instead, we are adding to the cost as the backlog grows.

I am uncomfortable with the fact that that is how we think here. I know the American people are uncomfortable with that fact. I am disappointed we will not have the support of the committee. I look forward to the vote.

The next amendment I will call up is pending, but I will discuss amendment No. 2482.

Mrs. FEINSTEIN. Will the Senator yield? I know he is a gentleman.

Mr. COBURN. I am happy to.

Mrs. FEINSTEIN. Madam President, when we did the stimulus, we put in the maximum amount that the departments could use for maintenance and rehabilitation. I have the breakdown. It is hard to add it all up quickly, but I can give some idea. Bureau of Land Management deferred maintenance, \$35 million; recreation maintenance, 25; trail maintenance, 20; abandoned mine site remediation, \$30 million; habitat restoration, 25. It goes on. I recall as we did this, what we were told by our staffs is that was the maximum amount these departments could absorb in the length of time covered by the stimulus. I will leave my colleagues with that.

Mr. COBURN. I would be happy to have a UC on this amendment that would exclude the inholdings, if that would satisfy the chairman.

In fact, the inholdings are a very small amount of the \$400 million. A very small amount of the money for land acquisitions is inholdings. I would be happy to accept a second degree that would exclude the inholdings from this.

Mrs. FEINSTEIN. I appreciate that, but I cannot accept that. We believe the Land and Water Conservation Fund is working as it is supposed to. If anything, it has been underfunded. This bill proposes to appropriate \$420 million of the \$900 million that is authorized. That is less than 50 percent. The Land and Water Conservation Fund, we believe, is extraordinarily important. We would try to get it higher if we could, but we cannot.

Mr. COBURN. I thank the chairman for her comments on that. I am sure it is important. It is important to preserve what we have. You can't go to one national park and talk to the park rangers and talk to the person in charge without hearing them talk about the declining status of their individual parks. We have to start making some choices. We are going to refuse to do that. So next year, instead of it being \$11 billion, it is going to be \$11.6 billion, and then it is going to grow. What is happening right now is, we are shutting off parts of our parks. We are saying, since it is dangerous or it is in disrepair, we cannot let people experience it.

I will put in the RECORD hundreds of examples where that is happening right now. We have researched and the parks have told us where they are limiting access because of the lack of maintenance funds and funds for repair of required things in the parks.

With that, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

#### AMENDMENT NO. 2504, AS MODIFIED

Mrs. FEINSTEIN. Madam President, I ask unanimous consent that the pending amendment be set aside and amendment No. 2504, as modified, be called up.

The PRESIDING OFFICER. Without objection, it is so ordered. The amendment, as modified, is pending.

#### AMENDMENT NO. 2504, AS FURTHER MODIFIED

Mrs. FEINSTEIN. Madam President, there is a further modification at the desk, and I ask unanimous consent that the amendment be further modified.

The PRESIDING OFFICER. Without objection, the amendment is further modified.

The amendment, as further modified, is as follows:

(Purpose: To encourage the participation of the National Park Service in activities preserving the papers and teachings of Dr. Martin Luther King, Jr., under the Civil Rights History Project Act of 2009)

On page 135, line 2, before the period, insert the following: "of which \$200,000 may be made available by the Secretary of the Interior to develop, in conjunction with Morehouse College, a program to catalogue, pre-

serve, provide public access to and research on, develop curriculum and courses based on, provide public access to, and conduct scholarly forums on the important works and papers of Dr. Martin Luther King, Jr. to provide a better understanding of the message and teachings of Dr. Martin Luther King, Jr.;"

Mrs. FEINSTEIN. Madam President, this modification, which has been agreed to on both sides, allows the Secretary of the Interior to make \$200,000 available for preservation of the Martin Luther King papers. It is an amendment offered by Senator ISAKSON. I fully support the amendment.

Madam President, I ask unanimous consent that the amendment as further modified, be agreed to.

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

The amendment (No. 2504), as further modified, was agreed to.

Mrs. FEINSTEIN. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant bill clerk proceeded to call the roll.

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

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

#### AMENDMENT NO. 2535

Mrs. FEINSTEIN. Madam President, I ask unanimous consent to call up amendment No. 2535.

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

The assistant bill clerk read as follows:

The Senator from California [Mrs. FEINSTEIN], for Mr. BARRASSO, proposes an amendment numbered 2535.

The amendment is as follows:

(Purpose: To provide for the use of certain funds for an Indian estate planning assistance program)

In the matter under the heading "FEDERAL TRUST PROGRAMS (INCLUDING TRANSFER OF FUNDS)" under the heading "OFFICE OF THE SPECIAL TRUSTEE FOR AMERICAN INDIANS" under the heading "DEPARTMENT OF THE INTERIOR" of title I, insert ", and of which \$1,500,000 shall be available for the estate planning assistance program under section 207(f) of the Indian Land Consolidation Act (25 U.S.C. 2206(f))" after "historical accounting".

Mrs. FEINSTEIN. Madam President, this amendment has been accepted by both sides. I ask unanimous consent that the amendment be agreed to.

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

The amendment (No. 2535) was agreed to.

#### AMENDMENT NO. 2527

Mrs. FEINSTEIN. Madam President, I ask unanimous consent to call up amendment No. 2527.

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

The assistant bill clerk read as follows:

The Senator from California [Mrs. FEINSTEIN], for Mr. BENNETT, proposes an amendment numbered 2527.

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

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

The amendment is as follows:

(Purpose: To modify the definition of the term "Beaver Dam Wash National Conservation Area Map")

On page 240, between lines 13 and 14, insert the following:

SEC. 4 \_\_\_\_ Section 1971(1) of the Omnibus Public Land Management Act of 2009 (16 U.S.C. 460www note; Public Law 111-11) is amended by striking "December 18, 2008" and inserting "September 20, 2009".

Mrs. FEINSTEIN. Madam President, I ask unanimous consent that the amendment be agreed to.

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

The amendment (No. 2527) was agreed to.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. LAUTENBERG. Madam President, I come to the floor because we were looking at an amendment earlier today that would have stopped the EPA from exercising its obligation to combat global warming pollution. There are those here who would choose to defer taking action to deal with this enormous threat where future generations' lives and well-being would be at risk. But the time for delay is a luxury we don't have. We can't afford to wait any longer and we cannot afford to limit our options.

Every day the science makes it more clear we are on a dangerous course. In fact, the scientific community has recently had to revise its own estimates because rising temperatures are destabilizing our planet far faster than originally expected. For instance, 2 years ago, scientists warned us that summers in the Arctic would be completely ice free by 2050. Now they are saying summers in the Arctic will be completely ice free in 3 years. Two years ago they said sea levels would rise less than 2 feet by the end of this century and now it is being said sea levels will rise by 6 feet. The risks of inaction are too great.

We have to look also at the national security risks we face by continuing to do nothing about climate change. According to the CIA's National Intelligence Council, if we fail to act, nearly 1 billion people may face water and food shortages in the next 15 years. These shortages will set the stage for conflict and breed conditions for terrorism. At the same time, with 20 percent of the world's population living in

coastal zones, rising sea levels and stronger hurricanes could displace more than 150 million people by 2050. When it is expressed in percentages such as that and talking about numbers that are almost beyond the imagination, it sometimes loses its impact. But what we are talking about are people seeking higher-level places to take themselves and their families so they are not overwhelmed by floods.

Border pressures created by these mass migrations will increase tensions and lay the groundwork for armed conflict. The U.S. Navy has looked at this problem in the past and issued a report that in the last half of the 21st century we could be looking at a different structure for naval engagements with smaller boats, higher speeds, and so forth to keep people from flooding our shores because they are trying to get away from higher water. Nations will look to us, to the United States, as a first responder in the aftermath of these major natural emergencies and humanitarian disasters.

Retired GEN Anthony Zinni put it this way, that if we don't begin reducing carbon emissions now, we will "pay the price later in military terms and that will involve human lives."

Delay is not a substitute for confronting this growing problem. It is no surprise that many of those who want to shelve the Clean Air Act and stop EPA from doing its duty are the same ones who close their eyes to the overwhelming scientific evidence that says, Wake up, hear the alarm. They have dismissed the ominous forecasts of life changes for plants, animals, and humans. They called global warming "the greatest hoax ever perpetrated on the American people." A hoax is a joke. That is a bad joke.

Let's not forget, the EPA's power to curb greenhouse gas emissions under the Clean Air Act was recently affirmed by the Supreme Court. The Clean Air Act has been one of the great success stories of our lifetime and it is one of the few tools we have to overcome climate change. For the last 40 years, this law has led to cleaner skies and healthier children. If it weren't for the Clean Air Act, 225,000 Americans would have died prematurely, according to an EPA study. Imagine, we would have lost 225,000 people if it weren't for the Clean Air Act.

While the gains have been enormous, the cost to polluters has been minimal. In fact, the total benefits to our economy have been identified as high as \$49 trillion, putting the benefit at 100 times greater than the cost for action. Even so, history shows that opponents often dramatically overstate the costs of environmental improvement. The last time we strengthened the Clean Air Act, our adversaries rang the alarm that these changes would cost too much and damage the economy. But as it turned out, the actual costs were less than one-fifth of what these opponents estimated. Today, even though EPA has a proven track record of pro-

ducing trillions in benefits for our economy and our country under the Clean Air Act, we are hearing the same kinds of warnings. It makes no sense.

There is no doubt our opponents prefer to endorse inaction and will reward failure. That is why I urge my colleagues to stand up to the special interests and stand for the public interest. It is time to say from our hearts that we are willing to stand firm against those who claim the overstated cost of change outweighs the risk of disappearing species, poor health, and international unrest.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant bill clerk proceeded to call the roll.

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

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

Mr. COBURN. Madam President, I wish to put my colleagues on notice that we are trying to work out an amendment so it can be acceptable to all parties concerned. It has to do with the heritage areas. If, in fact, you are a landowner in this country or you are a farmer or you are a rancher or you happen to have 20 acres in the country, you ought to be very worried about the implications and the consequences of those who come in and change the zoning laws on heritage areas.

Most people in this country have no idea they are in a heritage area. They have no knowledge that they are in a heritage area. As a matter of fact, the whole State of Tennessee is a heritage area. So what we are attempting to do is to create a mechanism where anybody in the country who is in a heritage area who doesn't want to be in it can be out of it with their property.

We also want to respectfully protect some efforts in North Dakota on one specifically where they would have to opt in. So we are working on an agreement. We will come back and talk about this when this is finished. Hopefully, this is the start of restoring property rights to Americans that have been trampled, in my opinion, by those who are empowered through the heritage area name.

My hope is we are going to make good progress on this with this bill. It is important. If you are a farmer or a rancher, if you are a farm bureau member, if you are a cattleman or if you are a dairy farmer, it is time to make sure this stays—whatever agreement we come to—in this bill as it goes to conference. Because real property rights are at risk. They have been at risk. They have been trampled on. This is a great solution in terms of solving it.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. ALEXANDER. Madam President, I wish to thank the Senator from Oklahoma, the Senator from California, the Senator from North Dakota, and the

Senator from New Mexico for their work on this amendment. The Senator from Oklahoma stated it exactly right, and that is our intention. I wish to thank the Senators involved.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Madam President, I am in support of the amendment offered by the Senator from Oklahoma. I also offered an amendment which I understand will be accepted. It allows for something called an "opt in" for private property. It means that for the Northern Plains Heritage Area, private property would be involved only if someone wishes to be included. My understanding is, after having worked with the Senators from Tennessee and Oklahoma, and the Senator from California, who is managing this bill, my amendment will also be accepted by unanimous consent.

My amendment is amendment No. 2441 which has previously been filed.

The PRESIDING OFFICER. The Senator from California.

Mrs. FEINSTEIN. Madam President, in the interest of moving things along—Members are impatient. We have been on this bill for a long time. We wish to conclude. It is my understanding both sides are agreeable to take the Dorgan amendment No. 2441, so I ask for unanimous consent.

Mr. ALEXANDER. Madam President, the Senator from Oklahoma has asked to be present when we do that, so I wonder if it might not be possible to take up other amendments at this time.

The PRESIDING OFFICER. The Senator from California.

Mrs. FEINSTEIN. Mr. President, I withdraw my prior request and I ask unanimous consent that at 5 o'clock tonight, the Senate proceed to vote in relation to the following amendments and motion to recommit remaining in order to H.R. 2996, the Interior Appropriations Act, and in the following order:

The Vitter amendment, No. 2549; the Ensign motion to recommit; the Coburn amendment No. 2482; the Coburn amendment No. 2483; and the Reid amendment No. 2531; that the remaining provisions of the previous order are still in effect.

The PRESIDING OFFICER (Mr. WHITEHOUSE). Is there objection?

Without objection, it is so ordered.

Mr. FEINGOLD. Mr. President, the exercise of governmental authority by White House advisers, sometimes called "czars," is a serious issue that deserves serious consideration by the Senate. Our ability to conduct meaningful oversight of those who hold the levers of power and to evaluate whether they have the qualifications and character to carry out their duties may be undermined by the centralization of power in the White House. That is why I wrote to the President recently and plan to chair a hearing in the Constitution Subcommittee on this topic in the very near future. We need to know

more about the role of these advisers and what powers they have. There is a core issue here that concerns me. At this point, however, it is premature to pass legislation on this topic before fully understanding the constitutional and policy ramifications. I am also uncomfortable with singling out a single policy adviser, the Assistant to the President for Energy and Climate Change, particularly since I am not aware of any evidence that she is acting inappropriately. Therefore, I will vote against the Vitter amendment.

Mrs. FEINSTEIN. Mr. President, I yield back the time remaining on the Vitter amendment No. 2549, and I move to table it. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is on agreeing to the motion. The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from West Virginia (Mr. BYRD) is necessarily absent.

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

The result was announced—yeas 57, nays 41, as follows:

[Rollcall Vote No. 295 Leg.]

#### YEAS—57

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

#### NAYS—41

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

#### NOT VOTING—1

Byrd

The motion was agreed to.

Mrs. FEINSTEIN. Mr. President, I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Nevada.

#### MOTION TO RECOMMIT

Mr. ENSIGN. Mr. President, I have a motion at the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Nevada [Mr. ENSIGN] moves to recommit H.R. 2996 to the Committee on Appropriations with instructions to report the same back to the Senate with changes that reduce the aggregate level of discretionary appropriations in the Act for fiscal year 2010 by \$4,270,000,000 from the level currently in the Act.

The PRESIDING OFFICER. There is 2 minutes equally divided.

Mr. ENSIGN. Mr. President, this is a very simple motion. It just says that at this time of runaway deficits, of out-of-control Federal spending, we are going to try to do a little something. We are just going to take this appropriations bill and say with regard to last year's level, which was increased fairly substantially, we are going to freeze it to last year's level.

As State budgets, local budgets, and family budgets are all being cut, trimmed, and tightened around the country, Washington says: You know what, we are going to print money. We are just going to borrow from our children and grandchildren and continue to print money and print money and push it off onto the next generation.

It is time for this body to show some fiscal restraint. So let's cut \$4 billion out of this spending bill and bring it back to last year's level. Let the Appropriations Committee determine where that spending is, but let's actually show some fiscal responsibility.

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

Who yields time?

The Senator from California.

Mrs. FEINSTEIN. Mr. President, I urge a "no" vote. I am going to move to table at the appropriate time. If we adopt the Ensign motion, we cut Park Service dollars, Indian health dollars, particularly water infrastructure. Mr. President, \$2.5 billion in this bill is for sewer grants; \$1.8 billion is for fire suppression. It is the first time we have met the fire suppression need fully so that they do not have to take from other accounts to fight fires.

I move to table the motion to recommit.

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

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The question is on agreeing to the motion to table the motion to recommit.

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) is necessarily absent.

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

The result was announced—yeas 64, nays 34, as follows:

[Rollcall Vote No. 296 Leg.]

#### YEAS—64

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

#### NAYS—34

Barrasso	Enzi	McCain
Bayh	Graham	McCaskill
Brownback	Grassley	McConnell
Bunning	Gregg	Risch
Burr	Hatch	Roberts
Chambliss	Hutchison	Sessions
Coburn	Inhofe	Snowe
Corker	Isakson	Thune
Cornyn	Johanns	Vitter
Crapo	Kyl	Wicker
DeMint	LeMieux	
Ensign	Lugar	

#### NOT VOTING—1

Byrd

The motion to table the motion to recommit was agreed to.

Mrs. FEINSTEIN. Mr. President, I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized.

#### AMENDMENT NO. 2482, AS MODIFIED

Mr. COBURN. Mr. President, I think we can dispense with two fairly quickly, one with a vote and one without. We have worked out an agreement on amendment No. 2482. I believe the modification is at the desk. We have an agreement between the chairman and ranking member of the committee and the Senator from New Mexico, who is chair of the appropriate authorizing committee, which allows private property owners to opt out of heritage areas. I ask for its consideration now, rather than spending more time on it, and ask unanimous consent it be accepted.

Mrs. FEINSTEIN. The Senator is correct. We are prepared to accept the amendment.

The PRESIDING OFFICER. If there is no objection, the amendment will be modified and agreed to as modified.

The amendment (No. 2482), as modified, was agreed to, as follows:

At the appropriate place insert the following:

Any owner of private property within an existing or new National Heritage Area may opt out of participating in any plan, project, program, or activity conducted within the National Heritage Area if the property owner provides written notice to the local coordinating entity.

## AMENDMENT NO. 2441

Mrs. FEINSTEIN. A corollary part of this is Dorgan amendment No. 2441, which also moves along with this. So we are prepared to accept Dorgan No. 2441 as well.

Mr. DORGAN. Mr. President, let me say I think this has been cleared by both sides. It does have a connection to the previous amendment. I appreciate the cooperation of the Senator from California, the Senator from Tennessee, and the Senator from Oklahoma.

I ask for its immediate consideration and approval.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from North Dakota [Mr. DORGAN], for himself, and Mr. CONRAD, proposes an amendment No. 2441.

The amendment is as follows:

(Purpose: To provide for the inclusion of property in, or removal of property from, the Northern Plains Heritage Area)

Beginning on page 173, strike line 12 and all that follows through page 174, line 5, and insert the following:

“(g) REQUIREMENTS FOR INCLUSION AND REMOVAL OF PROPERTY IN HERITAGE AREA.—

“(1) PRIVATE PROPERTY INCLUSION.—No privately owned property shall be included in the Heritage Area unless the owner of the private property provides to the management entity a written request for the inclusion.

“(2) PROPERTY REMOVAL.—

“(A) PRIVATE PROPERTY.—At the request of an owner of private property included in the Heritage Area pursuant to paragraph (1), the private property shall be immediately withdrawn from the Heritage Area if the owner of the property provides to the management entity a written notice requesting removal.

“(B) PUBLIC PROPERTY.—On written notice from the appropriate State or local government entity, public property included in the Heritage Area shall be immediately withdrawn from the Heritage Area.”.

The PRESIDING OFFICER. Without objection, the amendment will be accepted.

The amendment (No. 2441) was agreed to.

Mrs. FEINSTEIN. Mr. President, I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized.

## AMENDMENT NO. 2483

Mr. COBURN. We are on amendment No. 2483, which was not agreed to. We could not work out an agreement. I want to take a minute or two—we don't have a time agreement on this—to talk about this amendment, what amendment No. 2483 will do.

The PRESIDING OFFICER. There is 2 minutes equally divided on this amendment.

Mr. COBURN. I am not sure I was present. Do we have a unanimous consent in that regard?

The PRESIDING OFFICER. Yes.

Mr. COBURN. I should have been here to object.

We have an \$11 billion backlog in the national parks. It grew by \$400 million this year. The Land and Water Conservation Act of 1965 was not meant just to buy land. It was meant to take care of the backlogs and the problems associated with outdoor recreation enjoyment by the American people. There is almost \$400 million in this bill to buy more land rather than take care of the things we have today. This amendment simply moves that to take care of the backlog at every national park we have. If we do not do that, we are soon going to be at \$12 billion, soon at \$13 billion.

The PRESIDING OFFICER. The Senator will be in order.

Mr. COBURN. The fact is, it is common sense. Every American knows you do not build a garage when your front porch is falling down and that is the only way to get into your house. That is what is happening to our parks. I know there is some increased funding for the parks but the fact is they are falling down, whether it is Yellowstone—I don't care where it is, there are significant maintenance problems in the parks. That ought to be a priority before we add 1 more acre to 650 million acres we already own.

The PRESIDING OFFICER. Who yields time?

The Senator from California is recognized.

Mrs. FEINSTEIN. Mr. President, we oppose this amendment. We oppose it because it takes \$420 million out of the Land and Water Conservation Fund. We oppose it because the committee in the stimulus bill put in as many dollars as these departments could absorb in the period of time for maintenance.

I move to table. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is on agreeing to the motion.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from West Virginia (Mr. BYRD) is necessarily absent.

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

The result was announced—yeas 79, nays 19, as follows:

[Rollcall Vote No. 297 Leg.]

YEAS—79

Akaka	Cochran	Kaufman
Alexander	Collins	Kerry
Baucus	Corker	Klobuchar
Bayh	Dodd	Kohl
Begich	Dorgan	Landrieu
Bennet	Durbin	Lautenberg
Bennett	Feingold	LeMieux
Bingaman	Feinstein	Leahy
Bond	Franken	Levin
Boxer	Gillibrand	Lieberman
Brown	Graham	Lincoln
Brownback	Gregg	McCain
Burr	Hagan	McCaill
Burr	Harkin	McConnell
Cantwell	Hutchinson	Menendez
Cardin	Inouye	Merkley
Carper	Isakson	Mikulski
Casey	Johnson	Murkowski

Murray	Schumer	Udall (NM)
Nelson (NE)	Sessions	Vitter
Nelson (FL)	Shaheen	Voinovich
Pryor	Shelby	Warner
Reed	Snowe	Webb
Reid	Specter	Whitehouse
Roberts	Stabenow	Wyden
Rockefeller	Tester	
Sanders	Udall (CO)	

NAYS—19

Barrasso	DeMint	Kyl
Bunning	Ensign	Lugar
Chambliss	Enzi	Risch
Coburn	Grassley	Thune
Conrad	Hatch	Wicker
Cornyn	Inhofe	
Crapo	Johanns	

NOT VOTING—1

Byrd

The motion was agreed to.

Mrs. FEINSTEIN. Mr. President, I move to reconsider the vote.

Mr. ALEXANDER. I move to lay that motion upon the table.

The motion to lay upon the table was agreed to.

## AMENDMENT NO. 2531

The PRESIDING OFFICER. The question is on agreeing to the Reid amendment No. 2531.

Mrs. FEINSTEIN. I yield back all time on the Reid amendment. It has been cleared on both sides. I ask for its adoption by unanimous consent.

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

The amendment (No. 2531) was agreed to.

## TAHOE RIM TRAIL

Mrs. FEINSTEIN. Mr. President, I rise to provide additional clarification regarding a congressionally directed spending items included in the fiscal year 2010 Senate Interior Appropriations Subcommittee. At Senator REID's request, the committee included \$100,000 for the U.S. Forest Service to fund trail improvements in Nevada. It is my understanding that Senator REID intended those funds to be used for improvements for the Tahoe Rim Trail, to be conducted through a partnership with the Tahoe Rim Trail Association. Due to a clerical error, the project is not listed correctly in the committee report, and I would like to ensure that the RECORD clearly reflects Senator REID's intended use for these funds. Through the chair, I would like to ask my colleague from Nevada, the distinguished majority leader, if my understanding of his intent is correct?

Mr. REID. I would like to thank the chairman for her efforts to clarify this matter. Chairman FEINSTEIN is correct. I do intend that the funds recommended by the committee be used by the U.S. Forest Service for improvements to the Tahoe Rim Trail through their partnership with the Tahoe Rim Trail Association. I would also note for the record that my request complies fully with all disclosure requirements relating to congressionally directed spending.

Mrs. FEINSTEIN. Mr. President, I thank the majority leader for his clarification and I look forward to working with him to support his project as we move through the annual appropriations process.

## FUNDING RCAPS

Mr. LEAHY. Mr. President, as the Chair knows, I have long been a supporter of improving the quality of drinking water in rural America. There is a lot of work to be done. While small rural communities are home to fewer than 20 percent of America's population, they account for more than 85 percent of the Nation's community water systems, and are more likely than larger systems to report major drinking water violations. According to EPA data, 93 percent of the maximum contaminant level, MCL, and treatment technique, TT, violations reported in 2002 affected community water systems serving fewer than 10,000 people. MCL and TT violations include higher than allowable levels of organic and inorganic contaminants such as arsenic, benzene, atrazine, lead, copper and nitrate.

One significant reason for these high numbers is the lack of capacity among local elected officials to deal with the complexities of maintaining a safe and clean supply of drinking water. For this reason I have supported funding for RCAPs—six regional nonprofit organizations that help rural communities with facilities needs.

The technical assistance and training activities the RCAPs provide focus on helping communities comply with the Clean Water Act and the Safe Drinking Water Act. Last year alone, the RCAPs assisted more than 2,000 communities, leveraged over \$200,000,000 in funding, conducted 78 training sessions for almost 2,000 community water officials, and assisted nearly 3 million people to access safe and clean water. Most of the communities the RCAPs work with have populations of less than 1,500.

Funding for the RCAPs has been included in this bill for more than 20 years. I understand that the committee was limited by rules regarding earmarks, and I note that funding for the RCAPs is not included in the fiscal year 2010 Senate bill. However, I understand that the House bill includes funding for the RCAPs at the current rate and it my hope that in conference the Senate will move toward the House position on this.

Mrs. FEINSTEIN. I thank the Senator for his comments on this. I appreciate the difficulties faced by rural communities in gaining and maintaining access to adequate drinking water. I also know well the good work of the RCAPs in assisting those communities. As we move into conference on this legislation I look forward to working with my colleague to see if we can maintain funding for this important program.

## WHITE NOSE SYNDROME

Mr. LAUTENBERG. I would like to discuss with the Senator a serious issue that deserves our attention. White nose syndrome, WNS, is a fungus that is causing an extraordinary number of bat deaths, particularly in the Northeast. This disease has the potential to inflict widespread ecological, agricultural, and economic damage

throughout our country. More than 1 million bats have died from New Hampshire to Virginia over the last two winters, and scientists report mortality rates as high as 100 percent in some affected caves. Experts fear that WNS could lead to the extinction of many bat species as the disease spreads across the country.

WNS not only has ecological effects, but it also has severe economic and environmental implications. Bats consume vast quantities of insects, protecting crops and reducing pesticide use. A single bat can easily eat more than 3,000 insects a night and an entire colony will consume hundreds of millions of insects per year. Bats prey on mosquitoes, which spread disease, and moths and beetles, which damage agriculture.

With the Senator's leadership, the fiscal year 2010 Interior appropriations bill has included \$500,000 for research to prevent the spread of WNS, and I thank the Senator for that.

Mrs. FEINSTEIN. I thank Senator LAUTENBERG. Our offices have worked together on efforts to provide funding to fight WNS, and I share his concerns about this issue.

Mr. LAUTENBERG. As the Senator knows, the U.S. Fish and Wildlife Service, FWS, is spearheading efforts to better understand this deadly disease and learn how to control its spread. FWS is working in conjunction with the U.S. Geological Survey, National Park Service, and U.S. Forest Service and with State and local partners, scientists, and conservation organizations. Due to the high mortality rate and the rapid spread of the disease, time is of the essence.

Mrs. FEINSTEIN. I agree with the Senator. We must tackle this issue head-on and make sure all stakeholders are working together to combat this challenge.

Mr. LAUTENBERG. Experts estimate that much more funding is needed for research on WNS. Accordingly, I filed an important amendment to this bill, amendment No. 2476, to shift \$1.4 million in additional funding to WNS research. My amendment would not put any other projects or programs at risk, and it would provide critical resources to fight this disease. I ask for the chairman's assurance that she will work in conference to implement my amendment.

Mrs. FEINSTEIN. As I mentioned earlier, I share the Senator's concerns and agree that we need to focus more attention and resources on WNS. I commit to work in conference to increase funding for this disease as called for in his amendment.

## CLEAN AUTOMOTIVE TECHNOLOGY

Mr. LEVIN. Mr. President, I want to bring to the attention of the distinguished chair of the Appropriations Subcommittee on Interior, Environment and Related Agencies a very important program in my State. The Environmental Protection Agency's National Vehicle and Fuel Emissions Lab-

oratory in Ann Arbor, MI, leads EPA's Clean Automotive Technology Program by facilitating collaboration with the automotive industry through innovative research to achieve ultra low-pollution emissions, increase fuel efficiency and reduce greenhouse gases.

One of the programs that has been developed collaboratively through the Ann Arbor laboratory and its industry partners is the hydraulic hybrid technology which has come out of the laboratory's focus areas in hydraulic hybrid research, engine research, alternative fuels research and technical and analytical support. This technology offers potential to reduce greenhouse gas emissions by 50 percent.

The President's fiscal year 2010 budget increases the Climate Protection Program line in EPA's budget, which includes this facility, and I appreciate the subcommittee's concurrence with the request in the bill before the Senate.

It is my understanding that the version of the bill adopted by the House of Representatives provides an additional \$1.6 million over the fiscal year 2010 budget request. Is that also the understanding of the Senator from California?

Mrs. FEINSTEIN. The Senator is correct. The President's budget proposed \$18.975 million for the Climate Protection Program, and that is the same amount proposed in this bill. The House of Representatives approved \$20.575 million.

Mr. LEVIN. I hope to provide additional funding for this program in order to fund a demonstration program to deploy hybrid hydraulic technology in larger fleet vehicles, such as school buses. Demonstration of this hybrid hydraulic technology, through its incorporation into a fleet of school buses, would not only bring these fuel-efficient and environmentally friendly technologies closer to wide-scale viability and acceptance but also provide EPA with important data to support its work in developing achievable standards for fuel economy and greenhouse gas emissions.

As the conference committee considers the differences between the House and Senate bills, I am hopeful that the additional \$1.6 million included in the House bill will be maintained and that serious consideration will be given to directing this funding to demonstration of the hybrid hydraulic technology I have described.

Mrs. FEINSTEIN. I appreciate the Senator from Michigan bringing this to my attention and I assure him that I will keep his suggestions in mind as this bill progresses.

Mr. LEVIN. I thank the distinguished Senator.

## NEW YORK'S NORTHEASTERN STATES RESEARCH COOPERATIVE FUNDING

Mrs. FEINSTEIN. I would like to enter into a colloquy with my colleague from New York.

Mrs. GILLIBRAND. I thank the chairman for entering into a colloquy



with me and for her hard work on this bill. I want to discuss the need to add New York to the list of States included for Northeastern States Research Cooperative Funding.

The Northeastern States Research Cooperative, NSRC, was originally authorized by Congress in the Forest and Rangeland Renewable Resources Research Act of 1978 and is managed by the U.S. Forest Service. The clear intent of Congress in creating the NSRC was to fund a competitive grants research program shared by the four states of the cooperative, New Hampshire, Vermont, Maine and New York.

The original intent of Congress was to have all four States jointly funded by the enacted authorization of this act. Unfortunately, New York has been left out of the Forest Service budget requests this year.

Funding through this cooperative will maintain critical forestry research programs in New York State. For instance, the State University of New York, College of Environmental Science and Forestry has received funding through this program in the past that has provided research, technology transfer and outreach to coordinate and improve ecological and economic vitality of the northeastern forests of New York, Vermont, New Hampshire and Maine.

The NSRC's research is critical to the economic vitality of and quality-of-life in the 18.5 million acres of the New York's forested land.

Mrs. FEINSTEIN. I would like to thank my colleague for bringing this to my attention and I will certainly look into this matter during conference negotiations.

Mrs. GILLIBRAND. I thank the chairman for her help and for her leadership.

Mr. UDALL of New Mexico. Mr. President, I would like to correct the record regarding some recent remarks of Senator TOM COBURN of Oklahoma regarding offshore drilling. Senator COBURN stated in today's debate that I "voted against an opportunity to expand offshore exploration yesterday."

First, the Senator's comments are somewhat confusing because there were no votes yesterday that would have opened up even one acre of our offshore public lands to oil exploration. Instead, I believe that Senator COBURN may have been referring to yesterday's motion to recommit by Senator VITTER of Louisiana.

I opposed the Vitter motion yesterday because it was counter-productive. By using political interference in offshore permitting, it would have actually created serious delays. Supporters of the Vitter motion talked about their desire to expand offshore oil drilling, but the motion set up major legal obstacles to developing our natural resources.

The motion was vaguely drafted, but it could have blocked funding from being used to review the over 300,000 public comments received. The motion

also could have blocked the Secretary from considering facts and scientific evidence regarding the decision he needs to make.

I opposed the Vitter motion because the only way that we can legally access our public lands for natural resources is by due process. If we block the Department of Interior from following due process, that only serves to delay the process with litigation.

Mr. HATCH. Mr. President, I rise today to discuss an amendment I filed to the Interior appropriations bill, and in doing so, I hope to remind my colleagues about their responsibility as federally elected representatives of the citizens of the United States. The U.S. Constitution, the document written by the people to empower and limit government, specifically gives the Congress the power to make the laws that direct this government. The first section of the first article of the Constitution states "All legislative Powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives." The people also established an executive power and a judicial power, but put the lawmaking power specifically into the hands of Congress.

I would invite my colleagues to consider for a moment, and to remind themselves, why the people put the control of the Nation's laws into the hands of Congress, and not to the other branches of government. It is because Congress is directly answerable to the people. For members of Congress, there is no escape from the people. Our founding document ensures that we routinely have elections whereby lawmakers face the citizens who sent them here. By limiting legislative powers to Congress, the people have secured this power to themselves. So we see that the people are willing to live under laws, but only to the extent that those laws are their own.

This is a principle upon which our Nation was founded. This is a principle upon which we have achieved our status as a great nation. It is a principle that has made our government an inspiration to generations of free minds throughout the world. And I believe it is a principle that is being weakened on our watch during the 111th Congress.

In April of 2007, the Supreme Court ruled in *Massachusetts v. EPA*, by a 5 to 4 margin, that the Environmental Protection Agency could act to regulate carbon dioxide emissions as a pollutant from vehicles under the Clean Air Act without further authorization from Congress. And it is widely believed that this decision allows the EPA to also regulate carbon dioxide emissions from all other sources, as well, without further action from Congress.

I disagree with the Supreme Court's decision in *Massachusetts v. EPA* and even consider it ill-informed in some respects. However, I don't question the role of the Court to make such a deci-

sion. After all, the people did, in fact, give the Supreme Court the jurisdiction to interpret the laws of Congress.

Furthermore, I disagree with the EPA's finding that carbon dioxide poses an endangerment to humans and that it is a pollutant. Unlike conventional pollutants, CO<sub>2</sub> does not normally cause direct harm to our environment or to our bodies. It is considered an endangerment only because it has the potential as a greenhouse gas to warm the planet. What seems to be completely lost by the EPA, is that most scientists will tell you that a warming climate is a net benefit, while a cooling climate is a net detriment to life on Earth.

If greenhouse gases and warming are detrimental to life, then why doesn't the EPA propose to regulate water vapor? Water vapor makes up 95 percent of all greenhouse gases, and a cubic foot of water vapor has a much stronger warming factor than a cubic foot of carbon dioxide?

Those are just a couple questions that haven't been answered sufficiently, in my view. And so I disagree with the EPA's finding that carbon dioxide is an endangerment. In spite of that, I do recognize that the Supreme Court has the ability to interpret the Clean Air Act in a way that allows the EPA to make this finding.

However, I doubt that any of my colleagues can honestly say that when Congress voted for the Clean Air Act in 1970, that we intended that carbon dioxide should be regulated as a pollutant. But now we are witnessing the EPA initiating a process to that end which will lead to the most sweeping, and probably most expensive set of regulations in our nation's history, with no specific authorization from Congress to do so.

Is it the proper role of Congress to sit by and allow an independent agency, with nary an elected official within its walls to take over every single energy producing activity in the Nation? Could there be a more dramatic and sweeping centralization of government power than the move to control all carbon dioxide emissions? And are we, as the elected body representing the people going to hide behind a decision by a Supreme Court and just watch it happen? While technically, the Supreme Court and the EPA are acting within their jurisdictions and authority. Certainly, though, with such far reaching regulations, Congress has a responsibility to put these actions back under the direct authority of Congress, and thus back into the hands of the people.

My amendment would do just that. It would bar the EPA from moving forward with these far reaching regulations until Congress has expressly authorized such an action. I urge my colleagues to restore Congress and the people to their proper role over laws that relate to the regulation of carbon dioxide, and support my amendment.

Mr. AKAKA. Mr. President, I rise today to speak in support of the fiscal

year 2010 Department of the Interior, Environment, and Related Agencies Appropriations Act. I wish to thank subcommittee Chairman FEINSTEIN and Ranking Member ALEXANDER, as well as committee Chairman INOUE and Vice Chairman COCHRAN, for their work on this bill.

This bill will fund important programs at the Environmental Protection Agency, Department of the Interior, Indian Health Service, Forest Service, Smithsonian Institution, National Endowment for the Arts, and National Endowment for the Humanities. Consequently, it addresses critical needs related to public lands management, environmental protection, Indian Country, and cultural education. I am pleased with the inclusion of a number of initiatives for which I requested funding and that I believe will be of great benefit to Hawaii and our Nation. Therefore, I am very thankful that my colleagues on the Appropriations Committee recognized the need of these programs and backed them with unanimous committee approval. I would like to take this opportunity to discuss these important initiatives.

The Omnibus Public Lands Management Act of 2009, which was signed into law earlier this year, includes a bill I introduced in the 110th Congress to authorize appropriations for the National Tropical Botanical Garden, NTBG. Chartered by Congress in 1964, the NTBG collects, cultivates, and preserves tropical flora and conducts research in tropical botany. The NTBG's work has advanced disease treatment, world hunger prevention, and medical education. Funding in this appropriations bill will allow the NTBG to continue to help protect, propagate, and study tropical species that could permit additional scientific advances but are threatened with extinction.

The bill will also fund the establishment and construction of a research and education center for the Hawaii Experimental Tropical Forest, HETF. The Hawaii Tropical Forest Recovery Act, which I sponsored and became law in 1992, authorized the establishment of the HETF to be managed as a site for research and education on tropical forestry, conservation biology, and natural resource management. HETF has been home to dozens of research projects since its establishment, and it has been selected as one of the National Science Foundation's 20 core wildland sites of the National Ecological Observatory Network and a site of the Forest Service's Experimental Forest and Range Synthesis Network. Construction of the center will further HETF's mission to improve the conservation and scientific understanding of tropical forests, a natural resource of global significance.

The James Campbell National Wildlife Refuge will receive funding in this bill to help provide for the acquisition of the remaining parcels on Oahu's northern shore to complete the expan-

sion of the Refuge. The expansion would add approximately 1,100 acres and ensure protection of the largest natural coastal wetland and last remaining natural coastal dune ecosystem on Oahu. It is a premier endangered Hawaiian waterbird recovery area and supports four endangered Hawaiian waterbirds and a variety of migratory shorebirds and waterfowl. I was pleased to be an original cosponsor of the 2005 legislation that authorized such expansion and believe that securing the remaining parcels will aid in preserving the wetland's natural floodwater retention function.

In addition, the invasive species management project in Hawaii included in this bill will help to reduce the impact of established invasive species in the State and support ongoing efforts to prevent the introduction of new ones. Hawaii's delicate insular ecosystems are home to over 300 endangered species, which is more than any other State, and the primary factor limiting their recovery and contributing to their decline in Hawaii is the continued presence of ecologically harmful invasive species. Thus, continued vigilance and action is needed to safeguard these species and their habitats, which are so important both nationally, in terms of biodiversity, and locally, in terms of agriculture, tourism, and culture.

I am also pleased the funding in this appropriations bill that will support the Native Hawaiian Culture and Arts Program, NHCAP, which preserves, supports, revitalizes, and develops Native Hawaiian arts and culture. NHCAP's efforts are focused on assisting Native Hawaiians to be practitioners of their culture and to share knowledge of and celebrate Hawaiian art and culture. NHCAP projects include educational programs, exhibits, publications, and increased access to the Bishop Museum's vast cultural collections of artifacts, documents, and images. These projects foster Native Hawaiian cultural preservation, create important educational opportunities for youth, and promote the sort of understanding necessary in a multicultural nation and increasingly interconnected world.

As population grows on islands with limited freshwater resources, information to evaluate the sustainability of water resources is needed to make informed decisions that balance environmental protection with economic opportunity. The resources that this bill supports for well monitoring and water assessment in my State will enable continued work with stakeholders to provide information on water resources so that they can be managed in a sustainable and legally compliant basis. It will also provide for the operation of stream gauges, which supply data important to signaling flood conditions, improving long-term planning, examining climate change, and measuring water availability and quality.

In all, funding for our national priorities in such areas as environmental

protection, Federal lands, and cultural education is complemented in this bill by these six Hawaii programs that drive progress on research, education, planning, and preservation related to natural and cultural resources across my home state for the benefit of my constituents and the country as a whole. Again, I thank my colleagues for their support of these initiatives and urge continued support in conference.

Mr. LEVIN. Mr. President, I will vote for this bill to provide \$32 billion in funding for a variety of important environmental and infrastructure purposes. This bill would provide clean drinking water, prevent pollution from contaminating our precious natural resources, clean up hazardous waste sites, protect lands for habitat preservation and recreation, improve vehicle efficiency, and help restore the Great Lakes.

I am pleased this bill includes \$400 million for Great Lakes restoration and protection efforts through a new effort called the Great Lakes Restoration Initiative, GLRI. The GLRI is a multiagency effort to address the array of current and historic threats facing the Great Lakes including invasive aquatic species, nonpoint source pollution, and contaminated sediment.

While I appreciate the significant investment in the Great Lakes, I have encouraged the bill managers to provide the full funding requested for the GLRI. The President requested \$475 million for the GLRI, and the Environmental Protection Agency has prepared a spending plan for the full funding. Full funding is needed now and would be well spent.

A 2003 GAO report on Great Lakes federal restoration programs stated: "Despite early success in improving conditions in the Great Lakes Basin, significant environmental challenges remain, including increased threats from invasive species and cleanup of areas contaminated with toxic substances that pose human health threats." More recently, scientists report that the Great Lakes are exhibiting signs of stress due to a combination of sources, including toxic contaminants, invasive species, nutrient loading, shoreline and upland land use changes, and changes to how water flows. A 2005 report from a group of Great Lakes scientific experts states that "historical sources of stress have combined with new ones to reach a tipping point, the point at which ecosystem-level changes occur rapidly and unexpectedly, confounding the traditional relationships between sources of stress and the expected ecosystem response."

The Great Lakes are a unique American treasure. We must recognize that we are only their temporary stewards. If Congress does not act to keep pace with the needs of the lakes, and the tens of millions of Americans dependent upon them and affected by their condition, the problems will continue

to build and we may start to undo some of the important work that has already been done and is underway. We must be good stewards by providing the resources that the Federal Government needs to meet its ongoing obligation to protect and restore the Great Lakes. This bill will help us meet that great responsibility to future generations.

Importantly, the bill would provide \$1.4 billion to capitalize the Drinking Water State Revolving Fund and \$2.1 billion for the Clean Water State Revolving Fund for wastewater projects. The funding in the Senate bill more than doubles the amount provided in the fiscal year 2009 bill. I had urged appropriators to provide this increase because Michigan's water infrastructure needs are sizable. Michigan would receive about \$41 million for drinking water and \$88 million for wastewater projects, protecting public health, improving the environment, and creating a stronger economic climate.

I am also pleased this bill provides \$2.7 billion for our National Park Service, an increase of \$200 million from last year's level, which I supported. Michigan has six national park units, and this funding would help ensure these resources are adequately maintained and protected. The national parks have been struggling for years with inadequate funding and large maintenance and construction backlogs. This funding would help meet these needs so that our Nation's natural and cultural heritage is preserved. Over a million people visited Michigan's national parks last year, and it is important that visitors find our parks in good condition and that we do the same for future generations.

I am pleased to see this bill includes the President's fiscal year 2010 budget request for the Environmental Protection Agency's Climate Protection Program, which includes the Clean Automotive Technology Program. EPA's National Vehicle and Fuel Emissions Laboratory in Ann Arbor, MI, leads the Clean Automotive Technology Program by facilitating collaboration with the automotive industry through innovative research to achieve ultra low-pollution emissions, increase fuel efficiency and reduce greenhouse gases. An example of the work done collaboratively through this program at the Ann Arbor laboratory with its industry partners is development of hydraulic hybrid technology that offers potential to reduce greenhouse gas emissions by 50 percent. The House bill includes an additional \$1.6 million for the Climate Protection Program, and I am hopeful this additional funding will be maintained in conference and that serious consideration will be given to directing this funding to deployment of hybrid hydraulic technology in larger fleet vehicles, such as schoolbuses.

Mr. President, this appropriations bill would protect our natural resources and the Great Lakes in particular, provide communities with safe drinking water and wastewater infra-

structure, improve fuel efficiency and reduce greenhouse gases, and protect and improve public lands and parks, and I support its passage.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. REID. Mr. President, my understanding is that the next vote will be final passage on the Interior appropriations bill. I want to alert all Members and give them kind of a suggestion of what the schedule is going to be.

First of all, people are asking about the Finance Committee. I have spoken to Chairman BAUCUS. The Finance Committee is going to work late tonight. They are going to come in in the morning and work, and then they will make a decision how long they are going to work tomorrow and whether they go into the weekend.

The next item of business will be the Department of Defense appropriations bill. Tonight will be debate only. There will be no votes on Friday. The Defense appropriations managers will be here for amendments and debate.

This is one of the most important bills we deal with every year. There will be no votes on Monday. It is one of the high holidays, Yom Kippur. The Defense managers will be here to continue consideration of the bill. We are not going to be in session on Monday, not on the holiday. I do not think that would be appropriate. People are traveling that day. I do not think it is fair.

There will be votes on Tuesday. It will be like a regular Monday. There will be no votes before 5:30. I would hope if people have amendments on this Defense bill they will lay them down. We want to move on this as quickly as possible. We know there are lots of important subjects people want to talk about.

Wednesday, September 30, is the end of the fiscal year. We have a number of things we must do before the end of the fiscal year. We are going to have a CR. We have to extend FAA authority and other issues. All of the chairmen and ranking members know what they are and we have discussed them on the Senate floor.

Next week will be an extremely busy week. I am hopeful in the next few days the Finance Committee will complete their work on the Finance health care bill, and I hope we do not have to do anything dealing with reconciliation on that. We have made progress this week.

Members this week working on this bill have been very cooperative. We have two wonderful managers on this Interior appropriations bill. They have worked well together and done a good job.

Mrs. FEINSTEIN. Before you call the roll, I just want to thank the distinguished ranking member. A lot of cooperation went into this bill or it would have taken a lot longer.

I thank particularly the staff: Peter Kiefhaber, Virginia James, Scott Dalzell, Rachael Taylor, Chris Watkins; on the Republican side, Lee

Fonnesbeck, Rachelle Schroeder, and Rebecca Benn. We thank you very much.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. ALEXANDER. In 60 seconds I would like to thank Chairman FEINSTEIN for being so accommodating working with Republican Members. I would like to thank my colleagues for moving this bill along. Senators COCHRAN, INOUE, REID, and MCCONNELL have been terrific. The staff members, Peter and Rachael and Scott; on our side, Leif and Rachelle and Rebecca. We thank you for your hard work.

The PRESIDING OFFICER. Under the previous order, the committee substitute, as amended, is agreed to.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

#### AMENDMENT NO. 2445

Mrs. FEINSTEIN. Mr. President, I ask unanimous consent that Inhofe amendment No. 2445 be in order.

The PRESIDING OFFICER. Notwithstanding the adoption of the substitute, the clerk will report.

The legislative clerk read as follows:

The Senator from Oklahoma [Mr. INHOFE] proposes an amendment numbered 2445.

Mrs. FEINSTEIN. This amendment has been cleared on both sides. I ask unanimous consent the amendment be agreed to.

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

The amendment (No. 2445) was agreed to, as follows:

#### AMENDMENT NO. 2445

(Purpose: To provide for the expedited cleanup of the Tar Creek Superfund Site)  
On page 240, between lines 13 and 14, insert the following:

#### SEC. 423. TAR CREEK SUPERFUND SITE.

(a) IN GENERAL.—To expedite the cleanup of the Federal land and Indian land at the Tar Creek Superfund Site (referred to in this section as the "site"), any purchase of chat (as defined in section 278.1(b) of title 40, Code of Federal Regulations (or a successor regulation)), from the site shall be—

(1) counted at twice the purchase price of the chat; and

(2) eligible to be counted toward meeting the federally required disadvantaged business enterprise set-aside on federally funded projects.

(b) RESTRICTED INDIAN OWNERS.—Subsection (a) shall only apply if the purchase of chat is made from 1 or more restricted Indian owners or an Indian tribe.

(c) APPLICABLE LAW.—The use of chat acquired under subsection (a) shall conform with applicable laws (including the regulations for the use of chat promulgated by the Administrator of the Environmental Protection Agency).

The PRESIDING OFFICER. The question is on the engrossment of the committee amendment in the nature of

a substitute, as amended, and third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill pass?

Mr. MENENDEZ. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from West Virginia (Mr. BYRD) is necessarily absent.

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

The result was announced—yeas 77, nays 21, as follows:

[Rollcall Vote No. 298 Leg.]

YEAS—77

Akaka	Gillibrand	Murray
Alexander	Gregg	Nelson (NE)
Baucus	Hagan	Nelson (FL)
Begich	Harkin	Pryor
Bennet	Hatch	Reed
Bennett	Hutchison	Reid
Bingaman	Inouye	Risch
Bond	Isakson	Roberts
Boxer	Johanns	Rockefeller
Brown	Johnson	Sanders
Brownback	Kaufman	Schumer
Burr	Kerry	Shaheen
Cantwell	Klobuchar	Shelby
Cardin	Kohl	Snowe
Carper	Landrieu	Specter
Casey	Lautenberg	Stabenow
Cochran	Leahy	Tester
Collins	Levin	Udall (CO)
Conrad	Lieberman	Udall (NM)
Crapo	Lincoln	Voinovich
Dodd	Lugar	Warner
Dorgan	McCaskill	Webb
Durbin	Menendez	Whitehouse
Feingold	Merkley	Wicker
Feinstein	Mikulski	Wyden
Franken	Murkowski	

NAYS—21

Barrasso	Cornyn	Kyl
Bayh	DeMint	LeMieux
Bunning	Ensign	McCain
Burr	Enzi	McConnell
Chambliss	Graham	Sessions
Coburn	Grassley	Thune
Corker	Inhofe	Vitter

NOT VOTING—1

Byrd

The bill (H.R. 2996), as amended, was passed, as follows:

(The bill will be printed in a future edition of the RECORD.)

Mr. REID. I move to reconsider the vote and to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER appointed Mrs. FEINSTEIN, Mr. BYRD, Mr. LEAHY, Mr. DORGAN, Ms. MIKULSKI, Mr. KOHL, Mr. JOHNSON, Mr. REED, Mr. NELSON of Nebraska, Mr. TESTER, Mr. INOUE, Mr. ALEXANDER, Mr. COCHRAN, Mr. BENNETT, Mr. GREGG, Ms. MURKOWSKI, Ms. COLLINS and Mr. BOND conferees on the part of the Senate.

#### ENHANCED PARTNERSHIP WITH PAKISTAN ACT OF 2009

Mr. DORGAN. Mr. President, I ask unanimous consent that the Senate

proceed to the immediate consideration of S. 1707, introduced earlier today.

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

The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 1707) to authorize appropriations for fiscal year 2010 through 2014 to promote an enhanced strategic partnership with Pakistan and its people, and for other purposes.

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

Mr. DORGAN. Mr. President, I ask unanimous consent that the bill be read three times and passed, the motions to reconsider be laid upon the table, with no intervening action or debate, and any statements related to the bill be printed in the RECORD.

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

The bill (S. 1707) was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 1707

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

#### SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the “Enhanced Partnership with Pakistan Act of 2009”.

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

Sec. 1. Short title; table of contents.

Sec. 2. Definitions.

Sec. 3. Findings.

Sec. 4. Statement of principles.

#### TITLE I—DEMOCRATIC, ECONOMIC, AND DEVELOPMENT ASSISTANCE FOR PAKISTAN

Sec. 101. Authorization of assistance.

Sec. 102. Authorization of appropriations.

Sec. 103. Auditing.

#### TITLE II—SECURITY ASSISTANCE FOR PAKISTAN

Sec. 201. Purposes of assistance.

Sec. 202. Authorization of assistance.

Sec. 203. Limitations on certain assistance.

Sec. 204. Pakistan Counterinsurgency Capability Fund.

Sec. 205. Requirements for civilian control of certain assistance.

#### TITLE III—STRATEGY, ACCOUNTABILITY, MONITORING, AND OTHER PROVISIONS

Sec. 301. Strategy Reports.

Sec. 302. Monitoring Reports.

#### SEC. 2. DEFINITIONS.

In this Act:

(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—Except as otherwise provided in this Act, the term “appropriate congressional committees” means the Committees on Appropriations and Foreign Relations of the Senate and the Committees on Appropriations and Foreign Affairs of the House of Representatives.

(2) COUNTERINSURGENCY.—The term “counterinsurgency” means efforts to defeat organized movements that seek to overthrow the duly constituted Governments of Pakistan and Afghanistan through violent means.

(3) COUNTERTERRORISM.—The term “counterterrorism” means efforts to combat al Qaeda and other foreign terrorist organizations that are designated by the Secretary of State in accordance with section 219 of the Immigration and Nationality Act (8 U.S.C. 1189), or other individuals and entities engaged in terrorist activity or support for such activity.

(4) FATA.—The term “FATA” means the Federally Administered Tribal Areas of Pakistan.

(5) FRONTIER CRIMES REGULATION.—The term “Frontier Crimes Regulation” means the Frontier Crimes Regulation, codified under British law in 1901, and applicable to the FATA.

(6) IMPACT EVALUATION RESEARCH.—The term “impact evaluation research” means the application of research methods and statistical analysis to measure the extent to which change in a population-based outcome can be attributed to program intervention instead of other environmental factors.

(7) MAJOR DEFENSE EQUIPMENT.—The term “major defense equipment” has the meaning given the term in section 47(6) of the Arms Export Control Act (22 U.S.C. 2794(6)).

(8) NWFP.—The term “NWFP” means the North West Frontier Province of Pakistan, which has Peshawar as its provincial capital.

(9) OPERATIONS RESEARCH.—The term “operations research” means the application of social science research methods, statistical analysis, and other appropriate scientific methods to judge, compare, and improve policies and program outcomes, from the earliest stages of defining and designing programs through their development and implementation, with the objective of the rapid dissemination of conclusions and concrete impact on programming.

(10) SECURITY FORCES OF PAKISTAN.—The term “security forces of Pakistan” means the military and intelligence services of the Government of Pakistan, including the Armed Forces, Inter-Services Intelligence Directorate, Intelligence Bureau, police forces, levies, Frontier Corps, and Frontier Constabulary.

(11) SECURITY-RELATED ASSISTANCE.—The term “security-related assistance”—

(A) means—

(i) grant assistance to carry out section 23 of the Arms Export Control Act (22 U.S.C. 2763); and

(ii) assistance under chapter 2 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2311 et. seq); but

(B) does not include—

(i) assistance authorized to be appropriated or otherwise made available under any provision of law that is funded from accounts within budget function 050 (National Defense); and

(ii) amounts appropriated or otherwise available to the Pakistan Counterinsurgency Capability Fund established under the Supplemental Appropriations Act, 2009 (Public Law 111-32).

#### SEC. 3. FINDINGS.

Congress finds the following:

(1) The people of the Islamic Republic of Pakistan and the United States share a long history of friendship and comity, and the interests of both nations are well-served by strengthening and deepening this friendship.

(2) Since 2001, the United States has contributed more than \$15,000,000,000 to Pakistan, of which more than \$10,000,000,000 has been security-related assistance and direct payments.

(3) With the free and fair election of February 18, 2008, Pakistan returned to civilian rule, reversing years of political tension and mounting popular concern over military rule and Pakistan’s own democratic reform and political development.

(4) Pakistan is a major non-NATO ally of the United States and has been a valuable partner in the battle against al Qaeda and the Taliban, but much more remains to be accomplished by both nations.

(5) The struggle against al Qaeda, the Taliban, and affiliated terrorist groups has



led to the deaths of several thousand Pakistani civilians and members of the security forces of Pakistan over the past seven years.

(6) Despite killing or capturing hundreds of al Qaeda operatives and other terrorists—including major al Qaeda leaders, such as Khalid Sheikh Muhammad, Ramzi bin al-Shibh, and Abu Faraj al-Libi—the FATA, parts of the NWFP, Quetta in Balochistan, and Muridke in Punjab remain a sanctuary for al Qaeda, the Afghan Taliban, the Terikh-e Taliban and affiliated groups from which these groups organize terrorist actions against Pakistan and other countries.

(7) The security forces of Pakistan have struggled to contain a Taliban-backed insurgency, recently taking direct action against those who threaten Pakistan's security and stability, including military operations in the FATA and the NWFP.

(8) On March 27, 2009, President Obama noted, "Multiple intelligence estimates have warned that al Qaeda is actively planning attacks on the United States homeland from its safe-haven in Pakistan."

(9) According to a Government Accountability Office report (GAO-08-622), "since 2003, the [A]dministration's national security strategies and Congress have recognized that a comprehensive plan that includes all elements of national power—diplomatic, military, intelligence, development assistance, economic, and law enforcement support—was needed to address the terrorist threat emanating from the FATA" and that such a strategy was also mandated by section 7102(b)(3) of the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108-458; 22 U.S.C. 2656f note) and section 2042(b)(2) of the Implementing the Recommendations of the 9/11 Commission Act of 2007 (Public Law 110-53; 22 U.S.C. 2375 note).

(10) During 2008 and 2009, the people of Pakistan have been especially hard hit by rising food and commodity prices and severe energy shortages, with 3% of the population living on less than \$2 a day and 1/3 of the population living below the poverty line according to the United Nations Development Program.

(11) Economic growth is a fundamental foundation for human security and national stability in Pakistan, a country with more than 175,000,000 people, an annual population growth rate of two percent, and a ranking of 136 out of 177 countries in the United Nations Human Development Index.

(12) The 2009 Pakistani military offensive in the NWFP and the FATA displaced millions of residents in one of the gravest humanitarian crises Pakistan has faced, and despite the heroic efforts of Pakistanis to respond to the needs of the displaced millions and facilitate the return of many, it has highlighted the need for Pakistan to develop an effective national counterinsurgency strategy.

#### SEC. 4. STATEMENT OF PRINCIPLES.

Congress declares that the relationship between the United States and Pakistan should be based on the following principles:

(1) Pakistan is a critical friend and ally to the United States, both in times of strife and in times of peace, and the two countries share many common goals, including combating terrorism and violent radicalism, solidifying democracy and rule of law in Pakistan, and promoting the social and economic development of Pakistan.

(2) United States assistance to Pakistan is intended to supplement, not supplant, Pakistan's own efforts in building a stable, secure, and prosperous Pakistan.

(3) The United States requires a balanced, integrated, countrywide strategy for Pakistan that provides assistance throughout the country and does not disproportionately

focus on security-related assistance or one particular area or province.

(4) The United States supports Pakistan's struggle against extremist elements and recognizes the profound sacrifice made by Pakistan in the fight against terrorism, including the loss of more than 1,900 soldiers and police since 2001 in combat with al Qaeda, the Taliban, and other extremist and terrorist groups.

(5) The United States intends to work with the Government of Pakistan—

(A) to build mutual trust and confidence by actively and consistently pursuing a sustained, long-term, multifaceted relationship between the two countries, devoted to strengthening the mutual security, stability, and prosperity of both countries;

(B) to support the people of Pakistan and their democratic government in their efforts to consolidate democracy, including strengthening Pakistan's parliament, helping Pakistan reestablish an independent and transparent judicial system, and working to extend the rule of law in all areas in Pakistan;

(C) to promote sustainable long-term development and infrastructure projects, including in healthcare, education, water management, and energy programs, in all areas of Pakistan, that are sustained and supported by each successive democratic government in Pakistan;

(D) to ensure that all the people of Pakistan, including those living in areas governed by the Frontier Crimes Regulation, have access to public, modernized education and vocational training to enable them to provide for themselves, for their families, and for a more prosperous future for their children;

(E) to support the strengthening of core curricula and the quality of schools across Pakistan, including madrassas, in order to improve the prospects for Pakistani children's futures and eliminate incitements to violence and intolerance;

(F) to encourage and promote public-private partnerships in Pakistan in order to bolster ongoing development efforts and strengthen economic prospects, especially with respect to opportunities to build civic responsibility and professional skills of the people of Pakistan, including support for institutions of higher learning with international accreditation;

(G) to expand people-to-people engagement between the two countries, through increased educational, technical, and cultural exchanges and other methods;

(H) to encourage the development of local analytical capacity to measure program effectiveness and progress on an integrated basis, especially across the areas of United States assistance and payments to Pakistan, and increase accountability for how such assistance and payments are being spent;

(I) to assist Pakistan's efforts to improve counterterrorism financing and anti-money laundering regulatory structure in order to achieve international standards and encourage Pakistan to apply for "Financial Action Task Force" observer status and adhere to the United Nations International Convention for the Suppression of the Financing of Terrorism;

(J) to strengthen Pakistan's counterinsurgency and counterterrorism strategy to help prevent any territory of Pakistan from being used as a base or conduit for terrorist attacks in Pakistan or elsewhere;

(K) to strengthen Pakistan's efforts to develop strong and effective law enforcement and national defense forces under civilian leadership;

(L) to achieve full cooperation in matters of counter-proliferation of nuclear materials and related networks;

(M) to strengthen Pakistan's efforts to gain control of its under-governed areas and address the threat posed by any person or group that conducts violence, sabotage, or other terrorist activities in Pakistan or its neighboring countries; and

(N) to explore means to consult with and utilize the relevant expertise and skills of the Pakistani-American community.

#### TITLE I—DEMOCRATIC, ECONOMIC, AND DEVELOPMENT ASSISTANCE FOR PAKISTAN

##### SEC. 101. AUTHORIZATION OF ASSISTANCE.

(a) IN GENERAL.—The President is authorized to provide assistance to Pakistan—

(1) to support the consolidation of democratic institutions;

(2) to support the expansion of rule of law, build the capacity of government institutions, and promote respect for internationally-recognized human rights;

(3) to promote economic freedoms and sustainable economic development;

(4) to support investment in people, including those displaced in on-going counterinsurgency operations; and

(5) to strengthen public diplomacy.

(b) ACTIVITIES SUPPORTED.—Activities that may be supported by assistance under subsection (a) include the following:

(1) To support democratic institutions in Pakistan in order to strengthen civilian rule and long-term stability, including assistance such as—

(A) support for efforts to strengthen Pakistan's institutions, including the capacity of the National Parliament of Pakistan, such as enhancing the capacity of committees to oversee government activities, including national security issues, enhancing the ability of members of parliament to respond to constituents, and supporting of parliamentary leadership;

(B) support for voter education and civil society training as well as appropriate support for political party capacity building and responsiveness to the needs of all the people of Pakistan; and

(C) support for strengthening the capacity of the civilian Government of Pakistan to carry out its responsibilities at the national, provincial, and local levels.

(2) To support Pakistan's efforts to expand rule of law, build the capacity, transparency, and trust in government institutions, and promote internationally recognized human rights, including assistance such as—

(A) supporting the establishment of frameworks that promote government transparency and criminalize corruption in both the government and private sector;

(B) support for police professionalization, including training regarding use of force, human rights, and community policing;

(C) support for independent, efficient, and effective judicial and criminal justice systems, such as case management, training, and efforts to enhance the rule of law to all areas in Pakistan;

(D) support for the implementation of legal and political reforms in the FATA;

(E) support to counter the narcotics trade;

(F) support for internationally recognized human rights, including strengthening civil society and nongovernmental organizations working in the area of internationally recognized human rights, as well as organizations that focus on protection of women and girls, promotion of freedom of religion and religious tolerance, and protection of ethnic or religious minorities; and

(G) support for promotion of a responsible, capable, and independent media.

(3) To support economic freedom and economic development in Pakistan, including—

(A) programs that support sustainable economic growth, including in rural areas, and

the sustainable management of natural resources through investments in water resource management systems;

(B) expansion of agricultural and rural development, such as farm-to-market roads, systems to prevent spoilage and waste, and other small-scale infrastructure improvements;

(C) investments in energy, including energy generation and cross-border infrastructure projects with Afghanistan;

(D) employment generation, including increasing investment in infrastructure projects, including construction of roads and the continued development of a national aviation industry and aviation infrastructure, as well as support for small and medium enterprises;

(E) worker rights, including the right to form labor unions and legally enforce provisions safeguarding the rights of workers and local community stakeholders;

(F) access to microfinance for small business establishment and income generation, particularly for women; and

(G) countering radicalization by providing economic, social, educational, and vocational opportunities and life-skills training to at-risk youth.

(4) To support investments in people, particularly women and children, including—

(A) promoting modern, public primary and secondary education and vocational and technical training, including programs to assist in the development of modern, nationwide school curriculums for public, private, and religious schools; support for the proper oversight of all educational institutions, including religious schools, as required by Pakistani law; initiatives to enhance access to education and vocational and technical training for women and girls and to increase women's literacy, with a special emphasis on helping girls stay in school; and construction and maintenance of libraries and public schools;

(B) programs relating to higher education to ensure a breadth and consistency of Pakistani graduates, including through public-private partnerships;

(C) improving quality public health to eliminate diseases such as hepatitis and to reduce maternal and under-five mortality rates;

(D) building capacity for nongovernmental and civil society organizations, particularly organizations with demonstrated experience in delivering services to the people of Pakistan, particularly to women, children, and other vulnerable populations; and

(E) support for refugees and internally displaced persons and long-term development in regions of Pakistan where internal conflict has caused large-scale displacement.

(5) To strengthen public diplomacy to combat militant extremism and promote a better understanding of the United States, including—

(A) encouraging civil society, respected scholars, and other leaders to speak out against militancy and violence; and

(B) expanded exchange activities under the Fulbright Program, the International Visitor Leadership Program, the Youth Exchange and Study Program, and related programs administered by the Department of State designed to promote mutual understanding and interfaith dialogue and expand sister institution programs between United States and Pakistani schools and universities.

(C) ADDITIONAL AND RELATED ACTIVITIES.—

(1) AVAILABILITY OF AMOUNTS FOR PAKISTANI POLICE PROFESSIONALIZATION, EQUIPPING, AND TRAINING.—Not less than \$150,000,000 of the amounts appropriated for fiscal year 2010 pursuant to the authorization of appropriations under section 102

should be made available for assistance to Pakistan under this section for police professionalization, equipping, and training.

(2) AVAILABILITY OF AMOUNTS FOR ADMINISTRATIVE EXPENSES.—Up to \$10,000,000 of the amounts appropriated for each fiscal year pursuant to the authorization of appropriations under section 102 may be made available for administrative expenses of civilian departments and agencies of the United States Government in connection with the provision of assistance under this section. Such amounts shall be in addition to amounts otherwise available for such purposes.

(3) UTILIZING PAKISTANI ORGANIZATIONS.—The President is encouraged, as appropriate, to utilize Pakistani firms and community and local nongovernmental organizations in Pakistan, including through host country contracts, and to work with local leaders to provide assistance under this section.

(4) USE OF DIRECT EXPENDITURES.—Amounts appropriated for each fiscal year pursuant to the authorization of appropriations under section 102 or otherwise made available to carry out this section shall be utilized to the maximum extent possible as direct expenditures for projects and programs, subject to existing reporting and notification requirements.

(5) CHIEF OF MISSION FUND.—Of the amounts appropriated for each fiscal year pursuant to the authorization of appropriations under section 102, up to \$5,000,000 may be used by the Secretary of State to establish a fund for use by the Chief of Mission in Pakistan to provide assistance to Pakistan under this title or the Foreign Assistance Act of 1961 (22 U.S.C. 2151 et seq.) to address urgent needs or opportunities, consistent with the purposes of this section, or for purposes of humanitarian relief. The fund established pursuant to this paragraph may be referred to as the “Chief of Mission Fund”.

(6) SENSE OF CONGRESS.—It is the sense of Congress that—

(A) the United States should provide robust assistance to the people of Pakistan who have been displaced as a result of ongoing conflict and violence in Pakistan and support international efforts to coordinate assistance to refugees and internally displaced persons in Pakistan, including by providing support to international and nongovernmental organizations for this purpose;

(B) the Administrator of the United States Agency for International Development should support the development objectives of the Refugee Affected and Host Areas (RAHA) Initiative in Pakistan to address livelihoods, health, education, infrastructure development, and environmental restoration in identified parts of the country where Afghan refugees have lived; and

(C) the United States should have a coordinated, strategic communications strategy to engage the people of Pakistan and to help ensure the success of the measures authorized by this title.

(d) NOTIFICATION.—For fiscal years 2010 through 2014, the President shall notify the appropriate congressional committees not later than 15 days before obligating any assistance under this section as budgetary support to the Government of Pakistan or any element of the Government of Pakistan and shall include in such notification a description of the purpose and conditions attached to any such budgetary support.

#### SEC. 102. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated to the President, for the purposes of providing assistance to Pakistan under this title and to provide assistance to Pakistan under the Foreign Assistance Act of 1961 (22 U.S.C. 2151 et seq.), up to

\$1,500,000,000 for each of the fiscal years 2010 through 2014.

(b) AVAILABILITY OF FUNDS.—

(1) IN GENERAL.—Of the amounts appropriated in each fiscal year pursuant to the authorization of appropriations in subsection (a)—

(A) none of the amounts appropriated for assistance to Pakistan may be made available after the date that is 60 days after the date of the enactment of this Act unless the Pakistan Assistance Strategy Report has been submitted to the appropriate congressional committees pursuant to section 301(a); and

(B) not more than \$750,000,000 may be made available for assistance to Pakistan unless the President's Special Representative to Afghanistan and Pakistan submits to the appropriate congressional committees during such fiscal year—

(i) a certification that assistance provided to Pakistan under this title or the Foreign Assistance Act of 1961 to date has made or is making reasonable progress toward achieving the principal objectives of United States assistance to Pakistan contained in the Pakistan Assistance Strategy Report; and

(ii) a memorandum explaining the reasons justifying the certification described in clause (i).

(2) MAKER OF CERTIFICATION.—In the event of a vacancy in, or the termination of, the position of the President's Special Representative to Afghanistan and Pakistan, the certification and memorandum described under paragraph (1)(B) may be made by the Secretary of State.

(c) WAIVER.—The Secretary of State may waive the limitations in subsection (b) if the Secretary determines, and certifies to the appropriate congressional committees, that it is in the national security interests of the United States to do so.

(d) SENSE OF CONGRESS ON FOREIGN ASSISTANCE FUNDS.—It is the sense of Congress that, subject to an improving political and economic climate in Pakistan, there should be authorized to be appropriated up to \$1,500,000,000 for each of the fiscal years 2015 through 2019 for the purpose of providing assistance to Pakistan under the Foreign Assistance Act of 1961.

#### SEC. 103. AUDITING.

(a) ASSISTANCE AUTHORIZED.—The Inspector General of the Department of State, the Inspector General of the United States Agency for International Development, and the inspectors general of other Federal departments and agencies (other than the Inspector General of the Department of Defense) carrying out programs, projects, and activities using amounts appropriated to carry out this title shall audit, investigate, and oversee the obligation and expenditure of such amounts.

(b) AUTHORIZATION FOR IN-COUNTRY PRESENCE.—The Inspector General of the Department of State and the Inspector General of the United States Agency for International Development, after consultation with the Secretary of State and the Administrator of the United States Agency for International Development, are authorized to establish field offices in Pakistan with sufficient staff from each of the Offices of the Inspector General, respectively, to carry out subsection (a).

(c) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—Of the amounts authorized to be appropriated under section 102 for each of the fiscal years 2010 through 2014, up to \$30,000,000 for each fiscal year is authorized to be made available to carry out this section.

(2) RELATION TO OTHER AVAILABLE FUNDS.—Amounts made available under paragraph (1) are in addition to amounts otherwise available for such purposes.



## TITLE II—SECURITY ASSISTANCE FOR PAKISTAN

### SEC. 201. PURPOSES OF ASSISTANCE.

The purposes of assistance under this title are—

(1) to support Pakistan's paramount national security need to fight and win the ongoing counterinsurgency within its borders in accordance with its national security interests;

(2) to work with the Government of Pakistan to improve Pakistan's border security and control and help prevent any Pakistani territory from being used as a base or conduit for terrorist attacks in Pakistan, or elsewhere;

(3) to work in close cooperation with the Government of Pakistan to coordinate action against extremist and terrorist targets; and

(4) to help strengthen the institutions of democratic governance and promote control of military institutions by a democratically elected civilian government.

### SEC. 202. AUTHORIZATION OF ASSISTANCE.

(a) INTERNATIONAL MILITARY EDUCATION AND TRAINING.—

(1) IN GENERAL.—There are authorized to be appropriated such sums as may be necessary for each of the fiscal years 2010 through 2014 for assistance under chapter 5 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2347 et seq.) relating to international military education and training for Pakistan, including expanded international military education and training (commonly known as "E-IMET").

(2) USE OF FUNDS.—It is the sense of Congress that a substantial amount of funds made available to carry out this subsection for a fiscal year should be used to pay for courses of study and training in counterinsurgency and civil-military relations.

(b) FOREIGN MILITARY FINANCING PROGRAM.—

(1) IN GENERAL.—There are authorized to be appropriated such sums as may be necessary for each of the fiscal years 2010 through 2014 for grant assistance under section 23 of the Arms Export Control Act (22 U.S.C. 2763; relating to the Foreign Military Financing program) for the purchase of defense articles, defense services, and military education and training for Pakistan.

(2) USE OF FUNDS.—

(A) IN GENERAL.—A significant portion of the amount made available to carry out this subsection for a fiscal year shall be for the purchase of defense articles, defense services, and military education and training for activities relating to counterinsurgency and counterterrorism operations in Pakistan.

(B) SENSE OF CONGRESS.—It is the sense of Congress that a significant majority of funds made available to carry out this subsection for a fiscal year should be used for the purpose described in subparagraph (A).

(3) ADDITIONAL AUTHORITY.—Except as provided in sections 3 and 102 of the Arms Export Control Act, the second section 620J of the Foreign Assistance Act of 1961 (as added by Public Law 110-161), and any provision of an Act making appropriations for the Department of State, foreign operations, and related programs that restricts assistance to the government of any country whose duly elected head of government is deposed by military coup or decree, and except as otherwise provided in this title, amounts authorized to be made available to carry out paragraph (2) for fiscal years 2010 and 2011 are authorized to be made available notwithstanding any other provision of law.

(4) DEFINITIONS.—In this section, the terms "defense articles", "defense services", and "military education and training" have the meaning given such terms in section 644 of

the Foreign Assistance Act of 1961 (22 U.S.C. 2403).

(c) SENSE OF CONGRESS.—It is the sense of Congress that the United States should facilitate Pakistan's establishment of a program to provide reconstruction assistance, including through Pakistan's military as appropriate, in areas damaged by combat operations.

(d) EXCHANGE PROGRAM BETWEEN MILITARY AND CIVILIAN PERSONNEL OF PAKISTAN AND CERTAIN OTHER COUNTRIES.—

(1) IN GENERAL.—The Secretary of State is authorized to establish an exchange program between—

(A) military and civilian personnel of Pakistan; and

(B)(i) military and civilian personnel of countries determined by the Secretary of State to be in the process of consolidating and strengthening a democratic form of government; or

(ii) military and civilian personnel of North Atlantic Treaty Organization member countries, in order to foster greater mutual respect for and understanding of the principle of civilian rule of the military.

(2) ELEMENTS OF PROGRAM.—The program authorized under paragraph (1) may include conferences, seminars, exchanges, and other events, distribution of publications and reimbursements of expenses of foreign military personnel participating in the program, including transportation, translation and administrative expenses.

(3) ROLE OF NONGOVERNMENTAL ORGANIZATIONS.—Amounts authorized to be appropriated to carry out this section for a fiscal year are authorized to be made available for nongovernmental organizations to facilitate the implementation of the program authorized under paragraph (1).

(4) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary for each of the fiscal years 2010 through 2014 to carry out the program established by this subsection.

### SEC. 203. LIMITATIONS ON CERTAIN ASSISTANCE.

(a) LIMITATION ON SECURITY-RELATED ASSISTANCE.—For fiscal years 2011 through 2014, no security-related assistance may be provided to Pakistan in a fiscal year until the Secretary of State, under the direction of the President, makes the certification required under subsection (c) for such fiscal year.

(b) LIMITATION ON ARMS TRANSFERS.—For fiscal years 2012 through 2014, no letter of offer to sell major defense equipment to Pakistan may be issued pursuant to the Arms Export Control Act (22 U.S.C. 2751 et seq.) and no license to export major defense equipment to Pakistan may be issued pursuant to such Act in a fiscal year until the Secretary of State, under the direction of the President, makes the certification required under subsection (c) for such fiscal year.

(c) CERTIFICATION.—The certification required by this subsection is a certification by the Secretary of State, under the direction of the President, to the appropriate congressional committees that—

(1) the Government of Pakistan is continuing to cooperate with the United States in efforts to dismantle supplier networks relating to the acquisition of nuclear weapons-related materials, such as providing relevant information from or direct access to Pakistani nationals associated with such networks;

(2) the Government of Pakistan during the preceding fiscal year has demonstrated a sustained commitment to and is making significant efforts towards combating terrorist groups, consistent with the purposes of assistance described in section 201, including

taking into account the extent to which the Government of Pakistan has made progress on matters such as—

(A) ceasing support, including by any elements within the Pakistan military or its intelligence agency, to extremist and terrorist groups, particularly to any group that has conducted attacks against United States or coalition forces in Afghanistan, or against the territory or people of neighboring countries;

(B) preventing al Qaeda, the Taliban and associated terrorist groups, such as Lashkar-e-Taiba and Jaish-e-Mohammed, from operating in the territory of Pakistan, including carrying out cross-border attacks into neighboring countries, closing terrorist camps in the FATA, dismantling terrorist bases of operations in other parts of the country, including Quetta and Muridke, and taking action when provided with intelligence about high-level terrorist targets; and

(C) strengthening counterterrorism and anti-money laundering laws; and

(3) the security forces of Pakistan are not materially and substantially subverting the political or judicial processes of Pakistan.

(d) CERTAIN PAYMENTS.—

(1) IN GENERAL.—Subject to paragraph (2), none of the funds appropriated for security-related assistance for fiscal years 2010 through 2014, or any amounts appropriated to the Pakistan Counterinsurgency Capability Fund established under the Supplemental Appropriations Act, 2009 (Public Law 111-32), may be obligated or expended to make payments relating to—

(A) the Letter of Offer and Acceptance PK-D-YAD signed between the Governments of the United States of America and Pakistan on September 30, 2006;

(B) the Letter of Offer and Acceptance PK-D-NAP signed between the Governments of the United States of America and Pakistan on September 30, 2006; and

(C) the Letter of Offer and Acceptance PK-D-SAF signed between the Governments of the United States of America and Pakistan on September 30, 2006.

(2) EXCEPTION.—Funds appropriated for security-related assistance for fiscal years 2010 through 2014 may be used for construction and related activities carried out pursuant to the Letters of Offer and Acceptance described in paragraph (1).

(e) WAIVER.—

(1) IN GENERAL.—The Secretary of State, under the direction of the President, may waive the limitations contained in subsections (a), (b), and (d) for a fiscal year if the Secretary of State determines that is important to the national security interests of the United States to do so.

(2) PRIOR NOTICE OF WAIVER.—The Secretary of State, under the direction of the President, may not exercise the authority of paragraph (1) until 7 days after the Secretary of State provides to the appropriate congressional committees a written notice of the intent to issue to waive and the reasons therefor. The notice may be submitted in classified or unclassified form, as necessary.

(f) APPROPRIATE CONGRESSIONAL COMMITTEES DEFINED.—In this section, the term "appropriate congressional committees" means—

(1) the Committee on Foreign Affairs, the Committee on Armed Services, the Committee on Oversight and Government Reform, and the Permanent Select Committee on Intelligence of the House of Representatives; and

(2) the Committee on Foreign Relations, the Committee on Armed Services, and the Select Committee on Intelligence of the Senate.

**SEC. 204. PAKISTAN COUNTERINSURGENCY CAPABILITY FUND.**

(a) FOR FISCAL YEAR 2010.—

(1) IN GENERAL.—For fiscal year 2010, the Department of State's Pakistan Counterinsurgency Capability Fund established under the Supplemental Appropriations Act, 2009 (Public Law 111-32), hereinafter in this section referred to as the "Fund", shall consist of the following:

(A) Amounts appropriated to carry out this subsection (which may not include any amounts appropriated to carry out title I of this Act).

(B) Amounts otherwise available to the Secretary of State to carry out this subsection.

(2) PURPOSES OF FUND.—Amounts in the Fund made available to carry out this subsection for any fiscal year are authorized to be used by the Secretary of State, with the concurrence of the Secretary of Defense, to build and maintain the counterinsurgency capability of Pakistan under the same terms and conditions (except as otherwise provided in this subsection) that are applicable to amounts made available under the Fund for fiscal year 2009.

(3) TRANSFER AUTHORITY.—

(A) IN GENERAL.—The Secretary of State is authorized to transfer amounts in the Fund made available to carry out this subsection for any fiscal year to the Department of Defense's Pakistan Counterinsurgency Fund established under the Supplemental Appropriations Act, 2009 (Public Law 111-32) and such amounts may be transferred back to the Fund if the Secretary of Defense, with the concurrence of the Secretary of State, determines that such amounts are not needed for the purposes for which initially transferred.

(B) TREATMENT OF TRANSFERRED FUNDS.—Subject to subsections (d) and (e) of section 203, transfers from the Fund under the authority of subparagraph (A) shall be merged with and be available for the same purposes and for the same time period as amounts in the Department of Defense's Pakistan Counterinsurgency Fund.

(C) RELATION TO OTHER AUTHORITIES.—The authority to provide assistance under this subsection is in addition to any other authority to provide assistance to foreign countries.

(D) NOTIFICATION.—The Secretary of State shall, not less than 15 days prior to making transfers from the Fund under subparagraph (A), notify the appropriate congressional committees in writing of the details of any such transfer.

(b) SUBMISSION OF NOTIFICATIONS.—Any notification required by this section may be submitted in classified or unclassified form, as necessary.

(c) APPROPRIATE CONGRESSIONAL COMMITTEES DEFINED.—In this section, the term "appropriate congressional committees" means—

(1) the Committee on Appropriations, the Committee on Armed Services, and the Committee on Foreign Affairs of the House of Representatives; and

(2) the Committee on Appropriations, the Committee on Armed Services, and the Committee on Foreign Relations of the Senate.

**SEC. 205. REQUIREMENTS FOR CIVILIAN CONTROL OF CERTAIN ASSISTANCE.**

(a) REQUIREMENTS.—

(1) IN GENERAL.—For fiscal years 2010 through 2014, any direct cash security-related assistance or non-assistance payments by the United States to the Government of Pakistan may only be provided or made to civilian authorities of a civilian government of Pakistan.

(2) DOCUMENTATION.—For fiscal years 2010 through 2014, the Secretary of State, in coordination with the Secretary of Defense,

shall ensure that civilian authorities of a civilian government of Pakistan have received a copy of final documentation provided to the United States related to non-assistance payments provided or made to the Government of Pakistan.

(b) WAIVER.—

(1) SECURITY-RELATED ASSISTANCE.—The Secretary of State, in consultation with the Secretary of Defense, may waive the requirements of subsection (a) with respect to security-related assistance described in subsection (a) funded from accounts within budget function 150 (International Affairs) if the Secretary of State certifies to the appropriate congressional committees that the waiver is important to the national security interest of the United States.

(2) NON-ASSISTANCE PAYMENTS.—The Secretary of Defense, in consultation with the Secretary of State, may waive the requirements of subsection (a) with respect to non-assistance payments described in subsection (a) funded from accounts within budget function 050 (National Defense) if the Secretary of Defense certifies to the appropriate congressional committees that the waiver is important to the national security interest of the United States.

(c) APPLICATION TO CERTAIN ACTIVITIES.—Nothing in this section shall apply with respect to—

(1) any activities subject to reporting requirements under title V of the National Security Act of 1947 (50 U.S.C. 413 et seq.);

(2) any assistance to promote democratic elections or public participation in democratic processes;

(3) any assistance or payments if the Secretary of State determines and certifies to the appropriate congressional committees that subsequent to the termination of assistance or payments a democratically elected government has taken office;

(4) any assistance or payments made pursuant to section 1208 of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108-375; 118 Stat. 2086), as amended;

(5) any payments made pursuant to the Acquisition and Cross-Servicing Agreement between the Department of Defense of the United States of America and the Ministry of Defense of the Islamic Republic of Pakistan; and

(6) any assistance or payments made pursuant to section 943 of the Duncan Hunter National Defense Authorization Act for Fiscal Year 2009 (Public Law 110-417; 122 Stat. 4578).

(d) DEFINITIONS.—In this section—

(1) the term "appropriate congressional committees" means the Committees on Appropriations, Armed Services, and Foreign Affairs of the House of Representatives and the Committees on Appropriations, Armed Services, and Foreign Relations of the Senate; and

(2) the term "civilian government of Pakistan" does not include any government of Pakistan whose duly elected head of government is deposed by military coup or decree.

**TITLE III—STRATEGY, ACCOUNTABILITY, MONITORING, AND OTHER PROVISIONS****SEC. 301. STRATEGY REPORTS.**

(a) PAKISTAN ASSISTANCE STRATEGY REPORT.—Not later than 45 days after the date of enactment of this Act, the Secretary of State shall submit to the appropriate congressional committees a report describing United States policy and strategy with respect to assistance to Pakistan under this Act. The report shall include the following:

(1) A description of the principal objectives of United States assistance to Pakistan to be provided under title I of this Act.

(2) A general description of the specific programs, projects, and activities designed

to achieve the purposes of section 101 and the respective funding levels for such programs, projects, and activities for fiscal years 2010 through 2014.

(3) A plan for program monitoring, operations research, and impact evaluation research for assistance authorized under title I of this Act.

(4) A description of the role to be played by Pakistani national, regional, and local officials and members of Pakistani civil society and local private sector, civic, religious, and tribal leaders in helping to identify and implement programs and projects for which assistance is to be provided under this Act, and of consultations with such representatives in developing the strategy.

(5) A description of the steps taken, or to be taken, to ensure assistance provided under this Act is not awarded to individuals or entities affiliated with terrorist organizations.

(6) A projection of the levels of assistance to be provided to Pakistan under this Act, broken down into the following categories as described in the annual "Report on the Criteria and Methodology for Determining the Eligibility of Candidate Countries for Millennium Challenge Account Assistance":

(A) Civil liberties.

(B) Political rights.

(C) Voice and accountability.

(D) Government effectiveness.

(E) Rule of law.

(F) Control of corruption.

(G) Immunization rates.

(H) Public expenditure on health.

(I) Girls' primary education completion rate.

(J) Public expenditure on primary education.

(K) Natural resource management.

(L) Business start-up.

(M) Land rights and access.

(N) Trade policy.

(O) Regulatory quality.

(P) Inflation control.

(Q) Fiscal policy.

(7) An analysis for the suitable replacement for existing Pakistani helicopters, including recommendations for sustainment and training.

(b) COMPREHENSIVE REGIONAL STRATEGY REPORT.—

(1) SENSE OF CONGRESS.—It is the sense of Congress that the achievement of United States national security goals to eliminate terrorist threats and close safe havens in Pakistan requires the development of a comprehensive plan that utilizes all elements of national power, including in coordination and cooperation with other concerned governments, and that it is critical to Pakistan's long-term prosperity and security to strengthen regional relationships among India, Pakistan, and Afghanistan.

(2) COMPREHENSIVE REGIONAL SECURITY STRATEGY.—The President shall develop a comprehensive interagency regional security strategy to eliminate terrorist threats and close safe havens in Pakistan, including by working with the Government of Pakistan and other relevant governments and organizations in the region and elsewhere, as appropriate, to best implement effective counterinsurgency and counterterrorism efforts in and near the border areas of Pakistan and Afghanistan, including the FATA, the NWFP, parts of Balochistan, and parts of Punjab.

(3) REPORT.—

(A) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, the President shall submit to the appropriate congressional committees a report on the comprehensive regional security strategy required under paragraph (2).

(B) CONTENTS.—The report shall include a copy of the comprehensive regional security strategy, including specifications of goals, and proposed timelines and budgets for implementation of the strategy.

(C) APPROPRIATE CONGRESSIONAL COMMITTEES DEFINED.—In this paragraph, the term “appropriate congressional committees” means—

(i) the Committee on Appropriations, the Committee on Armed Services, the Committee on Foreign Affairs, and the Permanent Select Committee on Intelligence of the House of Representatives; and

(ii) the Committee on Appropriations, the Committee on Armed Services, the Committee on Foreign Relations, and the Select Committee on Intelligence of the Senate.

(C) SECURITY-RELATED ASSISTANCE PLAN.—Not later than 180 days after the date of the enactment of this Act, the Secretary of State shall submit to the appropriate congressional committees a plan for the proposed use of amounts authorized for security-related assistance for each of the fiscal years 2010 through 2014. Such plan shall include an assessment of how the use of such amounts complements or otherwise is related to amounts described in section 204.

#### SEC. 302. MONITORING REPORTS.

(a) SEMI-ANNUAL MONITORING REPORT.—Not later than 180 days after the submission of the Pakistan Assistance Strategy Report pursuant to section 301(a), and every 180 days thereafter through September 30, 2014, the Secretary of State, in consultation with the Secretary of Defense, shall submit to the appropriate congressional committees a report that describes the assistance provided under this Act during the preceding 180-day period. The report shall include—

(1) a description of all assistance by program, project, and activity, as well as by geographic area, provided pursuant to title I of this Act during the period covered by the report, including the amount of assistance provided for each program or project, and with respect to the first report a description of all amounts made available for assistance to Pakistan during fiscal year 2009, including a description of each program, project, and activity for which funds were made available;

(2) a list of persons or entities from the United States or other countries that have received funds in excess of \$100,000 to conduct projects under title I of this Act during the period covered by the report, which may be included in a classified annex, if necessary to avoid a security risk, and a justification for the classification;

(3) with respect to the plan described in section 301(a)(3), updates to such plan and a description of best practices to improve the impact of the assistance authorized under title I of this Act;

(4) an assessment of the effectiveness of assistance provided under title I of this Act during the period covered by the report in achieving desired objectives and outcomes as guided by the plan described in section 301(a)(3), and as updated pursuant to paragraph (3) of this subsection, including a systematic, qualitative, and where possible, quantitative basis for assessing whether desired outcomes are achieved and a timeline for completion of each project and program;

(5) a description of any shortfall in United States financial, physical, technical, or human resources that hinder the effective use and monitoring of such funds;

(6) a description of any negative impact, including the absorptive capacity of the region for which the resources are intended, of United States bilateral or multilateral assistance and recommendations for modification of funding, if any;

(7) any incidents or reports of waste, fraud, and abuse of expenditures under title I of this Act;

(8) the amount of funds authorized to be appropriated pursuant to section 102 that were used during the reporting period for administrative expenses or for audits and program reviews pursuant to the authority under sections 101(c)(2) and 103;

(9) a description of the expenditures made from any Chief of Mission Fund established pursuant to section 101(c)(5) during the period covered by the report, the purposes for which such expenditures were made, and a list of the recipients of any expenditures from the Chief of Mission Fund in excess of \$100,000;

(10) an accounting of assistance provided to Pakistan under title I of this Act, broken down into the categories set forth in section 301(a)(6);

(11) an evaluation of efforts undertaken by the Government of Pakistan to—

(A) disrupt, dismantle, and defeat al Qaeda, the Taliban, and other extremist and terrorist groups in the FATA and settled areas;

(B) eliminate the safe havens of such forces in Pakistan;

(C) close terrorist camps, including those of Lashkar-e-Taiba and Jaish-e-Mohammed;

(D) cease all support for extremist and terrorist groups;

(E) prevent attacks into neighboring countries;

(F) increase oversight over curriculum in madrassas, including closing madrassas with direct links to the Taliban or other extremist and terrorist groups; and

(G) improve counterterrorism financing and anti-money laundering laws, apply for observer status for the Financial Action Task Force, and take steps to adhere to the United Nations International Convention for the Suppression of Financing of Terrorism;

(12) a detailed description of Pakistan's efforts to prevent proliferation of nuclear-related material and expertise;

(13) an assessment of whether assistance provided to Pakistan has directly or indirectly aided the expansion of Pakistan's nuclear weapons program, whether by the diversion of United States assistance or the reallocation of Pakistan's financial resources that would otherwise be spent for programs and activities unrelated to its nuclear weapons program;

(14) a detailed description of the extent to which funds obligated and expended pursuant to section 202(b) meet the requirements of such section; and

(15) an assessment of the extent to which the Government of Pakistan exercises effective civilian control of the military, including a description of the extent to which civilian executive leaders and parliament exercise oversight and approval of military budgets, the chain of command, the process of promotion for senior military leaders, civilian involvement in strategic guidance and planning, and military involvement in civil administration.

(b) GOVERNMENT ACCOUNTABILITY OFFICE REPORTS.—

(1) PAKISTAN ASSISTANCE STRATEGY REPORT.—Not later than one year after the submission of the Pakistan Assistance Strategy Report pursuant to section 301(a), the Comptroller General of the United States shall submit to the appropriate congressional committees a report that contains—

(A) a review of, and comments addressing, the Pakistan Assistance Strategy Report;

(B) recommendations relating to any additional actions the Comptroller General believes could help improve the efficiency and effectiveness of United States efforts to meet the objectives of this Act;

(C) a detailed description of the expenditures made by Pakistan pursuant to grant assistance under section 23 of the Arms Export Control Act (22 U.S.C. 2763; relating to the Foreign Military Financing program); and

(D) an assessment of the impact of the assistance on the security and stability of Pakistan.

(2) CERTIFICATION REPORT.—Not later than 120 days after the date on which the President makes the certification described in section 203(c) for a fiscal year, the Comptroller General of the United States shall conduct an independent analysis of the certification described in such section and shall submit to the appropriate congressional committees a report containing the results of the independent analysis.

(c) SUBMISSION.—The Secretary of State may submit the reports required by this section in conjunction with other reports relating to Pakistan required under other provisions of law, including sections 1116 and 1117 of the Supplemental Appropriations Act, 2009 (Public Law 111-32; 123 Stat. 1906 and 1907).

(d) APPROPRIATE CONGRESSIONAL COMMITTEES DEFINED.—In this section, the term “appropriate congressional committees” means—

(1) the Committee on Appropriations, the Committee on Armed Services, and the Committee on Foreign Affairs of the House of Representatives; and

(2) the Committee on Appropriations, the Committee on Armed Services, and the Committee on Foreign Relations of the Senate.

#### DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, 2010

The PRESIDING OFFICER. The majority leader.

Mr. REID. I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 159, H.R. 3326, the Defense Department Appropriations Act; that once the bill is reported, the Senate then proceed to a period of morning business.

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

The clerk will report.

The assistant legislative clerk read as follows:

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

The Senate proceeded to consider the bill which had been reported from the Committee on Appropriations with an amendment to strike all after the enacting clause and insert in lieu thereof the following:

*That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 2010, for military functions administered by the Department of Defense and for other purposes, namely:*

#### TITLE I MILITARY PERSONNEL MILITARY PERSONNEL, ARMY

*For pay, allowances, individual clothing, subsistence, interest on deposits, gratuities, permanent change of station travel (including all expenses thereof for organizational movements), and expenses of temporary duty travel between permanent duty stations, for members of the Army on active duty, (except members of reserve components provided for elsewhere), cadets, and aviation cadets; for members of the Reserve Officers' Training Corps; and for payments pursuant to section 156 of Public Law 97-377, as*

amended (42 U.S.C. 402 note), and to the Department of Defense Military Retirement Fund, \$41,267,448,000.

#### MILITARY PERSONNEL, NAVY

For pay, allowances, individual clothing, subsistence, interest on deposits, gratuities, permanent change of station travel (including all expenses thereof for organizational movements), and expenses of temporary duty travel between permanent duty stations, for members of the Navy on active duty (except members of the Reserve provided for elsewhere), midshipmen, and aviation cadets; for members of the Reserve Officers' Training Corps; and for payments pursuant to section 156 of Public Law 97-377, as amended (42 U.S.C. 402 note), and to the Department of Defense Military Retirement Fund, \$25,440,472,000.

#### MILITARY PERSONNEL, MARINE CORPS

For pay, allowances, individual clothing, subsistence, interest on deposits, gratuities, permanent change of station travel (including all expenses thereof for organizational movements), and expenses of temporary duty travel between permanent duty stations, for members of the Marine Corps on active duty (except members of the Reserve provided for elsewhere); and for payments pursuant to section 156 of Public Law 97-377, as amended (42 U.S.C. 402 note), and to the Department of Defense Military Retirement Fund, \$12,883,790,000.

#### MILITARY PERSONNEL, AIR FORCE

For pay, allowances, individual clothing, subsistence, interest on deposits, gratuities, permanent change of station travel (including all expenses thereof for organizational movements), and expenses of temporary duty travel between permanent duty stations, for members of the Air Force on active duty (except members of reserve components provided for elsewhere), cadets, and aviation cadets; for members of the Reserve Officers' Training Corps; and for payments pursuant to section 156 of Public Law 97-377, as amended (42 U.S.C. 402 note), and to the Department of Defense Military Retirement Fund, \$26,378,761,000.

#### RESERVE PERSONNEL, ARMY

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Army Reserve on active duty under sections 10211, 10302, and 3038 of title 10, United States Code, or while serving on active duty under section 12301(d) of title 10, United States Code, in connection with performing duty specified in section 12310(a) of title 10, United States Code, or while undergoing reserve training, or while performing drills or equivalent duty or other duty, and expenses authorized by section 16131 of title 10, United States Code; and for payments to the Department of Defense Military Retirement Fund, \$4,286,656,000.

#### RESERVE PERSONNEL, NAVY

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Navy Reserve on active duty under section 10211 of title 10, United States Code, or while serving on active duty under section 12301(d) of title 10, United States Code, in connection with performing duty specified in section 12310(a) of title 10, United States Code, or while undergoing reserve training, or while performing drills or equivalent duty, and expenses authorized by section 16131 of title 10, United States Code; and for payments to the Department of Defense Military Retirement Fund, \$1,905,166,000.

#### RESERVE PERSONNEL, MARINE CORPS

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Marine Corps Reserve on active duty under section 10211 of title 10, United States Code, or while serving on active duty under section 12301(d) of title 10, United States Code, in connection with performing duty specified in section 12310(a) of title 10, United States

Code, or while undergoing reserve training, or while performing drills or equivalent duty, and for members of the Marine Corps platoon leaders class, and expenses authorized by section 16131 of title 10, United States Code; and for payments to the Department of Defense Military Retirement Fund, \$611,500,000.

#### RESERVE PERSONNEL, AIR FORCE

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Air Force Reserve on active duty under sections 10211, 10305, and 8038 of title 10, United States Code, or while serving on active duty under section 12301(d) of title 10, United States Code, in connection with performing duty specified in section 12310(a) of title 10, United States Code, or while undergoing reserve training, or while performing drills or equivalent duty or other duty, and expenses authorized by section 16131 of title 10, United States Code; and for payments to the Department of Defense Military Retirement Fund, \$1,584,712,000.

#### NATIONAL GUARD PERSONNEL, ARMY

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Army National Guard while on duty under section 10211, 10302, or 12402 of title 10 or section 708 of title 32, United States Code, or while serving on duty under section 12301(d) of title 10 or section 502(f) of title 32, United States Code, in connection with performing duty specified in section 12310(a) of title 10, United States Code, or while undergoing training, or while performing drills or equivalent duty or other duty, and expenses authorized by section 16131 of title 10, United States Code; and for payments to the Department of Defense Military Retirement Fund, \$7,535,088,000.

#### NATIONAL GUARD PERSONNEL, AIR FORCE

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Air National Guard on duty under section 10211, 10305, or 12402 of title 10 or section 708 of title 32, United States Code, or while serving on duty under section 12301(d) of title 10 or section 502(f) of title 32, United States Code, in connection with performing duty specified in section 12310(a) of title 10, United States Code, or while undergoing training, or while performing drills or equivalent duty or other duty, and expenses authorized by section 16131 of title 10, United States Code; and for payments to the Department of Defense Military Retirement Fund, \$2,923,599,000.

### TITLE II

#### OPERATION AND MAINTENANCE

##### OPERATION AND MAINTENANCE, ARMY

For expenses, not otherwise provided for, necessary for the operation and maintenance of the Army, as authorized by law; and not to exceed \$12,478,000 can be used for emergencies and extraordinary expenses, to be expended on the approval or authority of the Secretary of the Army, and payments may be made on his certificate of necessity for confidential military purposes, \$30,667,886,000.

##### OPERATION AND MAINTENANCE, NAVY

For expenses, not otherwise provided for, necessary for the operation and maintenance of the Navy and the Marine Corps, as authorized by law; and not to exceed \$14,657,000 can be used for emergencies and extraordinary expenses, to be expended on the approval or authority of the Secretary of the Navy, and payments may be made on his certificate of necessity for confidential military purposes, \$34,773,497,000.

##### OPERATION AND MAINTENANCE, MARINE CORPS

For expenses, not otherwise provided for, necessary for the operation and maintenance of the Marine Corps, as authorized by law, \$5,435,923,000.

##### OPERATION AND MAINTENANCE, AIR FORCE

For expenses, not otherwise provided for, necessary for the operation and maintenance of the

Air Force, as authorized by law; and not to exceed \$7,699,000 can be used for emergencies and extraordinary expenses, to be expended on the approval or authority of the Secretary of the Air Force, and payments may be made on his certificate of necessity for confidential military purposes, \$33,739,447,000.

##### OPERATION AND MAINTENANCE, DEFENSE-WIDE

##### (INCLUDING TRANSFER OF FUNDS)

For expenses, not otherwise provided for, necessary for the operation and maintenance of activities and agencies of the Department of Defense (other than the military departments), as authorized by law, \$28,205,050,000: Provided, That not more than \$50,000,000 may be used for the Combatant Commander Initiative Fund authorized under section 166a of title 10, United States Code: Provided further, That not to exceed \$36,000,000 can be used for emergencies and extraordinary expenses, to be expended on the approval or authority of the Secretary of Defense, and payments may be made on his certificate of necessity for confidential military purposes: Provided further, That of the funds provided under this heading, not less than \$29,732,000 shall be made available for the Procurement Technical Assistance Cooperative Agreement Program, of which not less than \$3,600,000 shall be available for centers defined in 10 U.S.C. 2411(1)(D): Provided further, That none of the funds appropriated or otherwise made available by this Act may be used to plan or implement the consolidation of a budget or appropriations liaison office of the Office of the Secretary of Defense, the office of the Secretary of a military department, or the service headquarters of one of the Armed Forces into a legislative affairs or legislative liaison office: Provided further, That \$6,667,000, to remain available until expended, is available only for expenses relating to certain classified activities, and may be transferred as necessary by the Secretary to operation and maintenance appropriations or research, development, test and evaluation appropriations, to be merged with and to be available for the same time period as the appropriations to which transferred: Provided further, That any ceiling on the investment item unit cost of items that may be purchased with operation and maintenance funds shall not apply to the funds described in the preceding proviso: Provided further, That the transfer authority provided under this heading is in addition to any other transfer authority provided elsewhere in this Act.

##### OPERATION AND MAINTENANCE, ARMY RESERVE

For expenses, not otherwise provided for, necessary for the operation and maintenance, including training, organization, and administration, of the Army Reserve; repair of facilities and equipment; hire of passenger motor vehicles; travel and transportation; care of the dead; recruiting; procurement of services, supplies, and equipment; and communications, \$2,582,624,000.

##### OPERATION AND MAINTENANCE, NAVY RESERVE

For expenses, not otherwise provided for, necessary for the operation and maintenance, including training, organization, and administration, of the Navy Reserve; repair of facilities and equipment; hire of passenger motor vehicles; travel and transportation; care of the dead; recruiting; procurement of services, supplies, and equipment; and communications, \$1,272,501,000.

##### OPERATION AND MAINTENANCE, MARINE CORPS RESERVE

For expenses, not otherwise provided for, necessary for the operation and maintenance, including training, organization, and administration, of the Marine Corps Reserve; repair of facilities and equipment; hire of passenger motor vehicles; travel and transportation; care of the dead; recruiting; procurement of services, supplies, and equipment; and communications, \$219,425,000.

OPERATION AND MAINTENANCE, AIR FORCE  
RESERVE

For expenses, not otherwise provided for, necessary for the operation and maintenance, including training, organization, and administration, of the Air Force Reserve; repair of facilities and equipment; hire of passenger motor vehicles; travel and transportation; care of the dead; recruiting; procurement of services, supplies, and equipment; and communications, \$3,085,700,000.

OPERATION AND MAINTENANCE, ARMY NATIONAL  
GUARD

For expenses of training, organizing, and administering the Army National Guard, including medical and hospital treatment and related expenses in non-Federal hospitals; maintenance, operation, and repairs to structures and facilities; hire of passenger motor vehicles; personnel services in the National Guard Bureau; travel expenses (other than mileage), as authorized by law for Army personnel on active duty, for Army National Guard division, regimental, and battalion commanders while inspecting units in compliance with National Guard Bureau regulations when specifically authorized by the Chief, National Guard Bureau; supplying and equipping the Army National Guard as authorized by law; and expenses of repair, modification, maintenance, and issue of supplies and equipment (including aircraft), \$5,989,034,000.

OPERATION AND MAINTENANCE, AIR NATIONAL  
GUARD

For expenses of training, organizing, and administering the Air National Guard, including medical and hospital treatment and related expenses in non-Federal hospitals; maintenance, operation, and repairs to structures and facilities; transportation of things, hire of passenger motor vehicles; supplying and equipping the Air National Guard, as authorized by law; expenses for repair, modification, maintenance, and issue of supplies and equipment, including those furnished from stocks under the control of agencies of the Department of Defense; travel expenses (other than mileage) on the same basis as authorized by law for Air National Guard personnel on active Federal duty, for Air National Guard commanders while inspecting units in compliance with National Guard Bureau regulations when specifically authorized by the Chief, National Guard Bureau, \$5,857,011,000.

UNITED STATES COURT OF APPEALS FOR THE  
ARMED FORCES

For salaries and expenses necessary for the United States Court of Appeals for the Armed Forces, \$13,932,000, of which not to exceed \$5,000 may be used for official representation purposes.

ENVIRONMENTAL RESTORATION, ARMY  
(INCLUDING TRANSFER OF FUNDS)

For the Department of the Army, \$430,864,000, to remain available until transferred: Provided, That the Secretary of the Army shall, upon determining that such funds are required for environmental restoration, reduction and recycling of hazardous waste, removal of unsafe buildings and debris of the Department of the Army, or for similar purposes, transfer the funds made available by this appropriation to other appropriations made available to the Department of the Army, to be merged with and to be available for the same purposes and for the same time period as the appropriations to which transferred: Provided further, That upon a determination that all or part of the funds transferred from this appropriation are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation: Provided further, That the transfer authority provided under this heading is in addition to any other transfer authority provided elsewhere in this Act.

ENVIRONMENTAL RESTORATION, NAVY  
(INCLUDING TRANSFER OF FUNDS)

For the Department of the Navy, \$285,869,000, to remain available until transferred: Provided,

That the Secretary of the Navy shall, upon determining that such funds are required for environmental restoration, reduction and recycling of hazardous waste, removal of unsafe buildings and debris of the Department of the Navy, or for similar purposes, transfer the funds made available by this appropriation to other appropriations made available to the Department of the Navy, to be merged with and to be available for the same purposes and for the same time period as the appropriations to which transferred: Provided further, That upon a determination that all or part of the funds transferred from this appropriation are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation: Provided further, That the transfer authority provided under this heading is in addition to any other transfer authority provided elsewhere in this Act.

ENVIRONMENTAL RESTORATION, AIR FORCE  
(INCLUDING TRANSFER OF FUNDS)

For the Department of the Air Force, \$494,276,000, to remain available until transferred: Provided, That the Secretary of the Air Force shall, upon determining that such funds are required for environmental restoration, reduction and recycling of hazardous waste, removal of unsafe buildings and debris of the Department of the Air Force, or for similar purposes, transfer the funds made available by this appropriation to other appropriations made available to the Department of the Air Force, to be merged with and to be available for the same purposes and for the same time period as the appropriations to which transferred: Provided further, That upon a determination that all or part of the funds transferred from this appropriation are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation: Provided further, That the transfer authority provided under this heading is in addition to any other transfer authority provided elsewhere in this Act.

ENVIRONMENTAL RESTORATION, DEFENSE-WIDE  
(INCLUDING TRANSFER OF FUNDS)

For the Department of Defense, \$11,100,000, to remain available until transferred: Provided, That the Secretary of Defense shall, upon determining that such funds are required for environmental restoration, reduction and recycling of hazardous waste, removal of unsafe buildings and debris of the Department of Defense, or for similar purposes, transfer the funds made available by this appropriation to other appropriations made available to the Department of Defense, to be merged with and to be available for the same purposes and for the same time period as the appropriations to which transferred: Provided further, That upon a determination that all or part of the funds transferred from this appropriation are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation: Provided further, That the transfer authority provided under this heading is in addition to any other transfer authority provided elsewhere in this Act.

ENVIRONMENTAL RESTORATION, FORMERLY USED  
DEFENSE SITES  
(INCLUDING TRANSFER OF FUNDS)

For the Department of the Army, \$307,700,000, to remain available until transferred: Provided, That the Secretary of the Army shall, upon determining that such funds are required for environmental restoration, reduction and recycling of hazardous waste, removal of unsafe buildings and debris at sites formerly used by the Department of Defense, transfer the funds made available by this appropriation to other appropriations made available to the Department of the Army, to be merged with and to be available for the same purposes and for the same time period as the appropriations to which transferred: Provided further, That upon a determination that

all or part of the funds transferred from this appropriation are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation: Provided further, That the transfer authority provided under this heading is in addition to any other transfer authority provided elsewhere in this Act.

OVERSEAS HUMANITARIAN, DISASTER, AND CIVIC  
AID

For expenses relating to the Overseas Humanitarian, Disaster, and Civic Aid programs of the Department of Defense (consisting of the programs provided under sections 401, 402, 404, 407, 2557, and 2561 of title 10, United States Code), \$109,869,000, to remain available until September 30, 2011.

## COOPERATIVE THREAT REDUCTION ACCOUNT

For assistance to the republics of the former Soviet Union and, with appropriate authorization by the Department of Defense and Department of State, to countries outside of the former Soviet Union, including assistance provided by contract or by grants, for facilitating the elimination and the safe and secure transportation and storage of nuclear, chemical and other weapons; for establishing programs to prevent the proliferation of weapons, weapons components, and weapon-related technology and expertise; for programs relating to the training and support of defense and military personnel for demilitarization and protection of weapons, weapons components and weapons technology and expertise, and for defense and military contacts, \$424,093,000, to remain available until September 30, 2012: Provided, That of the amounts provided under this heading, not less than \$15,000,000 shall be available only to support the dismantling and disposal of nuclear submarines, submarine reactor components, and security enhancements for transport and storage of nuclear warheads in the Russian Far East and North.

DEPARTMENT OF DEFENSE ACQUISITION  
WORKFORCE DEVELOPMENT FUND

For the Department of Defense Acquisition Workforce Development Fund, \$100,000,000.

TITLE III  
PROCUREMENT

## AIRCRAFT PROCUREMENT, ARMY

For construction, procurement, production, modification, and modernization of aircraft, equipment, including ordnance, ground handling equipment, spare parts, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes, \$5,244,252,000, to remain available for obligation until September 30, 2012.

## MISSILE PROCUREMENT, ARMY

For construction, procurement, production, modification, and modernization of missiles, equipment, including ordnance, ground handling equipment, spare parts, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes, \$1,257,053,000, to remain available for obligation until September 30, 2012.

#### PROCUREMENT OF WEAPONS AND TRACKED COMBAT VEHICLES, ARMY

For construction, procurement, production, and modification of weapons and tracked combat vehicles, equipment, including ordnance, spare parts, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes, \$2,310,007,000, to remain available for obligation until September 30, 2012.

#### PROCUREMENT OF AMMUNITION, ARMY

For construction, procurement, production, and modification of ammunition, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including ammunition facilities, authorized by section 2854 of title 10, United States Code, and the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes, \$2,049,995,000, to remain available for obligation until September 30, 2012.

#### OTHER PROCUREMENT, ARMY

For construction, procurement, production, and modification of vehicles, including tactical, support, and non-tracked combat vehicles; the purchase of passenger motor vehicles for replacement only; and the purchase of eight vehicles required for physical security of personnel, notwithstanding price limitations applicable to passenger vehicles but not to exceed \$250,000 per vehicle; communications and electronic equipment; other support equipment; spare parts, ordnance, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes, \$9,395,444,000, to remain available for obligation until September 30, 2012.

#### AIRCRAFT PROCUREMENT, NAVY

For construction, procurement, production, modification, and modernization of aircraft, equipment, including ordnance, spare parts, and accessories therefor; specialized equipment; expansion of public and private plants, including the land necessary therefor, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway, \$18,079,312,000, to remain available for obligation until September 30, 2012.

#### WEAPONS PROCUREMENT, NAVY

For construction, procurement, production, modification, and modernization of missiles, torpedoes, other weapons, and related support equipment including spare parts, and accessories therefor; expansion of public and private plants, including the land necessary therefor, and such lands and interests therein, may be ac-

quired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway, \$3,446,419,000, to remain available for obligation until September 30, 2012.

#### PROCUREMENT OF AMMUNITION, NAVY AND MARINE CORPS

For construction, procurement, production, and modification of ammunition, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including ammunition facilities, authorized by section 2854 of title 10, United States Code, and the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes, \$814,015,000, to remain available for obligation until September 30, 2012.

#### SHIPBUILDING AND CONVERSION, NAVY

For expenses necessary for the construction, acquisition, or conversion of vessels as authorized by law, including armor and armament thereof, plant equipment, appliances, and machine tools and installation thereof in public and private plants; reserve plant and Government and contractor-owned equipment layaway; procurement of critical, long lead time components and designs for vessels to be constructed or converted in the future; and expansion of public and private plants, including land necessary therefor, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title, as follows:

Carrier Replacement Program, \$739,269,000;  
Carrier Replacement Program (AP), \$484,432,000;  
NSSN, \$1,964,317,000;  
NSSN (AP), \$1,959,725,000;  
CVN Refueling, \$1,563,602,000;  
CVN Refuelings (AP), \$211,820,000;  
DDG-1000 Program, \$1,393,797,000;  
DDG-51 Destroyer, \$3,650,000,000;  
DDG-51 Destroyer (AP), \$328,996,000;  
Littoral Combat Ship, \$1,080,000,000;  
LPD-17, \$872,392,000;  
LPD-17 (AP), \$184,555,000;  
LHA-R (AP), \$170,000,000;  
Intratheater Connector, \$177,956,000;  
LCAC Service Life Extension Program, \$63,857,000;  
Prior year shipbuilding costs, \$144,950,000;  
Service Craft, \$3,694,000; and  
For outfitting, post delivery, conversions, and first destination transportation, \$391,238,000.

In all: \$15,384,600,000, to remain available for obligation until September 30, 2014: Provided, That additional obligations may be incurred after September 30, 2014, for engineering services, tests, evaluations, and other such budgeted work that must be performed in the final stage of ship construction: Provided further, That none of the funds provided under this heading for the construction or conversion of any naval vessel to be constructed in shipyards in the United States shall be expended in foreign facilities for the construction of major components of such vessel: Provided further, That none of the funds provided under this heading shall be used for the construction of any naval vessel in foreign shipyards.

#### OTHER PROCUREMENT, NAVY

For procurement, production, and modernization of support equipment and materials not otherwise provided for, Navy ordnance (except ordnance for new aircraft, new ships, and ships authorized for conversion); the purchase of passenger motor vehicles for replacement only, and

the purchase of seven vehicles required for physical security of personnel, notwithstanding price limitations applicable to passenger vehicles but not to exceed \$250,000 per vehicle; expansion of public and private plants, including the land necessary therefor, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway, \$5,499,413,000, to remain available for obligation until September 30, 2012.

#### PROCUREMENT, MARINE CORPS

For expenses necessary for the procurement, manufacture, and modification of missiles, armament, military equipment, spare parts, and accessories therefor; plant equipment, appliances, and machine tools, and installation thereof in public and private plants; reserve plant and Government and contractor-owned equipment layaway; vehicles for the Marine Corps, including the purchase of passenger motor vehicles for replacement only; and expansion of public and private plants, including land necessary therefor, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title, \$1,550,080,000, to remain available for obligation until September 30, 2012.

#### AIRCRAFT PROCUREMENT, AIR FORCE

For construction, procurement, and modification of aircraft and equipment, including armor and armament, specialized ground handling equipment, and training devices, spare parts, and accessories therefor; specialized equipment; expansion of public and private plants, Government-owned equipment and installation thereof in such plants, erection of structures, and acquisition of land, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes including rents and transportation of things, \$13,148,720,000, to remain available for obligation until September 30, 2012.

#### MISSILE PROCUREMENT, AIR FORCE

For construction, procurement, and modification of missiles, spacecraft, rockets, and related equipment, including spare parts and accessories therefor, ground handling equipment, and training devices; expansion of public and private plants, Government-owned equipment and installation thereof in such plants, erection of structures, and acquisition of land, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes including rents and transportation of things, \$6,070,344,000, to remain available for obligation until September 30, 2012.

#### PROCUREMENT OF AMMUNITION, AIR FORCE

For construction, procurement, production, and modification of ammunition, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including ammunition facilities, authorized by section 2854 of title 10, United States Code, and the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes, \$815,246,000, to remain available for obligation until September 30, 2012.



## OTHER PROCUREMENT, AIR FORCE

For procurement and modification of equipment (including ground guidance and electronic control equipment, and ground electronic and communication equipment), and supplies, materials, and spare parts therefor, not otherwise provided for; the purchase of passenger motor vehicles for replacement only, and the purchase of two vehicles required for physical security of personnel, notwithstanding price limitations applicable to passenger vehicles but not to exceed \$250,000 per vehicle; lease of passenger motor vehicles; and expansion of public and private plants, Government-owned equipment and installation thereof in such plants, erection of structures, and acquisition of land, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon, prior to approval of title; reserve plant and Government and contractor-owned equipment layaway, \$17,283,800,000, to remain available for obligation until September 30, 2012.

## PROCUREMENT, DEFENSE-WIDE

For expenses of activities and agencies of the Department of Defense (other than the military departments) necessary for procurement, production, and modification of equipment, supplies, materials, and spare parts therefor, not otherwise provided for; the purchase of passenger motor vehicles for replacement only; expansion of public and private plants, equipment, and installation thereof in such plants, erection of structures, and acquisition of land for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; reserve plant and Government and contractor-owned equipment layaway, \$4,017,697,000, to remain available for obligation until September 30, 2012.

## NATIONAL GUARD AND RESERVE EQUIPMENT

For procurement of aircraft, missiles, tracked combat vehicles, ammunition, other weapons, and other procurement for the reserve components of the Armed Forces, \$1,500,000,000, to remain available for obligation until September 30, 2012: Provided, That the Chiefs of the Reserve and National Guard components shall, not later than 30 days after the enactment of this Act, individually submit to the congressional defense committees the modernization priority assessment for their respective Reserve or National Guard component.

## DEFENSE PRODUCTION ACT PURCHASES

For activities by the Department of Defense pursuant to sections 108, 301, 302, and 303 of the Defense Production Act of 1950 (50 U.S.C. App. 2078, 2091, 2092, and 2093), \$159,746,000, to remain available until expended.

## TITLE IV

## RESEARCH, DEVELOPMENT, TEST AND EVALUATION

## RESEARCH, DEVELOPMENT, TEST AND EVALUATION, ARMY

For expenses necessary for basic and applied scientific research, development, test and evaluation, including maintenance, rehabilitation, lease, and operation of facilities and equipment, \$10,653,126,000, to remain available for obligation until September 30, 2011.

## RESEARCH, DEVELOPMENT, TEST AND EVALUATION, NAVY

For expenses necessary for basic and applied scientific research, development, test and evaluation, including maintenance, rehabilitation, lease, and operation of facilities and equipment, \$19,148,509,000, to remain available for obligation until September 30, 2011: Provided, That funds appropriated in this paragraph which are available for the V-22 may be used to meet unique operational requirements of the Special Operations Forces: Provided further, That funds appropriated in this paragraph shall be available for the Cobra Judy program.

## RESEARCH, DEVELOPMENT, TEST AND EVALUATION, AIR FORCE

For expenses necessary for basic and applied scientific research, development, test and evaluation, including maintenance, rehabilitation, lease, and operation of facilities and equipment, \$28,049,015,000, to remain available for obligation until September 30, 2011.

## RESEARCH, DEVELOPMENT, TEST AND EVALUATION, DEFENSE-WIDE

For expenses of activities and agencies of the Department of Defense (other than the military departments), necessary for basic and applied scientific research, development, test and evaluation; advanced research projects as may be designated and determined by the Secretary of Defense, pursuant to law; maintenance, rehabilitation, lease, and operation of facilities and equipment, \$20,408,968,000, to remain available for obligation until September 30, 2011, of which \$2,500,000 shall be available only for the Missile Defense Agency to construct a replacement Patriot launcher pad for the Japanese Ministry of Defense.

## OPERATIONAL TEST AND EVALUATION, DEFENSE

For expenses, not otherwise provided for, necessary for the independent activities of the Director, Operational Test and Evaluation, in the direction and supervision of operational test and evaluation, including initial operational test and evaluation which is conducted prior to, and in support of, production decisions; joint operational testing and evaluation; and administrative expenses in connection therewith, \$190,770,000, to remain available for obligation until September 30, 2011.

## TITLE V

## REVOLVING AND MANAGEMENT FUNDS

## DEFENSE WORKING CAPITAL FUNDS

For the Defense Working Capital Funds, \$1,455,004,000.

## NATIONAL DEFENSE SEALIFT FUND

For National Defense Sealift Fund programs, projects, and activities, and for expenses of the National Defense Reserve Fleet, as established by section 11 of the Merchant Ship Sales Act of 1946 (50 U.S.C. App. 1744), and for the necessary expenses to maintain and preserve a U.S.-flag merchant fleet to serve the national security needs of the United States, \$1,242,758,000, to remain available until expended: Provided, That none of the funds provided in this paragraph shall be used to award a new contract that provides for the acquisition of any of the following major components unless such components are manufactured in the United States: auxiliary equipment, including pumps, for all shipboard services; propulsion system components (engines, reduction gears, and propellers); shipboard cranes; and spreaders for shipboard cranes: Provided further, That the exercise of an option in a contract awarded through the obligation of previously appropriated funds shall not be considered to be the award of a new contract: Provided further, That the Secretary of the military department responsible for such procurement may waive the restrictions in the first proviso on a case-by-case basis by certifying in writing to the Committees on Appropriations of the House of Representatives and the Senate that adequate domestic supplies are not available to meet Department of Defense requirements on a timely basis and that such an acquisition must be made in order to acquire capability for national security purposes.

## TITLE VI

## OTHER DEPARTMENT OF DEFENSE PROGRAMS

## DEFENSE HEALTH PROGRAM

For expenses, not otherwise provided for, for medical and health care programs of the Department of Defense as authorized by law, \$28,311,113,000; of which \$26,990,219,000 shall be for operation and maintenance, of which not to

exceed one percent shall remain available until September 30, 2011, and of which up to \$15,093,539,000 may be available for contracts entered into under the TRICARE program; of which \$322,142,000, to remain available for obligation until September 30, 2012, shall be for procurement; and of which \$998,752,000, to remain available for obligation until September 30, 2011, shall be for research, development, test and evaluation.

## CHEMICAL AGENTS AND MUNITIONS

## DESTRUCTION, DEFENSE

For expenses, not otherwise provided for, necessary for the destruction of the United States stockpile of lethal chemical agents and munitions, to include construction of facilities, in accordance with the provisions of section 1412 of the Department of Defense Authorization Act, 1986 (50 U.S.C. 1521), and for the destruction of other chemical warfare materials that are not in the chemical weapon stockpile, \$1,539,869,000, of which \$1,125,911,000 shall be for operation and maintenance, of which no less than \$84,839,000, shall be for the Chemical Stockpile Emergency Preparedness Program, consisting of \$34,905,000 for activities on military installations and \$49,934,000, to remain available until September 30, 2011, to assist State and local governments; \$12,689,000 shall be for procurement, to remain available until September 30, 2012, of which no less than \$12,689,000 shall be for the Chemical Stockpile Emergency Preparedness Program to assist State and local governments; and \$401,269,000, to remain available until September 30, 2011, shall be for research, development, test and evaluation, of which \$398,669,000 shall only be for the Assembled Chemical Weapons Alternatives (ACWA) program.

## DRUG INTERDICTION AND COUNTER-DRUG ACTIVITIES, DEFENSE

## (INCLUDING TRANSFER OF FUNDS)

For drug interdiction and counter-drug activities of the Department of Defense, for transfer to appropriations available to the Department of Defense for military personnel of the reserve components serving under the provisions of title 10 and title 32, United States Code; for operation and maintenance; for procurement; and for research, development, test and evaluation, \$1,103,086,000: Provided, That the funds appropriated under this heading shall be available for obligation for the same time period and for the same purpose as the appropriation to which transferred: Provided further, That upon a determination that all or part of the funds transferred from this appropriation are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation: Provided further, That the transfer authority provided under this heading is in addition to any other transfer authority contained elsewhere in this Act.

## OFFICE OF THE INSPECTOR GENERAL

For expenses and activities of the Office of the Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, \$288,100,000, of which \$287,100,000 shall be for operation and maintenance, of which not to exceed \$700,000 is available for emergencies and extraordinary expenses to be expended on the approval or authority of the Inspector General, and payments may be made on the Inspector General's certificate of necessity for confidential military purposes; and of which \$1,000,000, to remain available until September 30, 2012, shall be for procurement.

## TITLE VII

## RELATED AGENCIES

## CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABILITY SYSTEM FUND

For payment to the Central Intelligence Agency Retirement and Disability System Fund, to maintain the proper funding level for continuing the operation of the Central Intelligence Agency Retirement and Disability System, \$290,900,000.

INTELLIGENCE COMMUNITY MANAGEMENT  
ACCOUNT

For necessary expenses of the Intelligence Community Management Account, \$750,812,000.

TITLE VIII

GENERAL PROVISIONS

SEC. 8001. No part of any appropriation contained in this Act shall be used for publicity or propaganda purposes not authorized by the Congress.

SEC. 8002. During the current fiscal year, provisions of law prohibiting the payment of compensation to, or employment of, any person not a citizen of the United States shall not apply to personnel of the Department of Defense: Provided, That salary increases granted to direct and indirect hire foreign national employees of the Department of Defense funded by this Act shall not be at a rate in excess of the percentage increase authorized by law for civilian employees of the Department of Defense whose pay is computed under the provisions of section 5332 of title 5, United States Code, or at a rate in excess of the percentage increase provided by the appropriate host nation to its own employees, whichever is higher: Provided further, That this section shall not apply to Department of Defense foreign service national employees serving at United States diplomatic missions whose pay is set by the Department of State under the Foreign Service Act of 1980: Provided further, That the limitations of this provision shall not apply to foreign national employees of the Department of Defense in the Republic of Turkey.

SEC. 8003. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year, unless expressly so provided herein.

SEC. 8004. No more than 20 percent of the appropriations in this Act which are limited for obligation during the current fiscal year shall be obligated during the last 2 months of the fiscal year: Provided, That this section shall not apply to obligations for support of active duty training of reserve components or summer camp training of the Reserve Officers' Training Corps.

(TRANSFER OF FUNDS)

SEC. 8005. Upon determination by the Secretary of Defense that such action is necessary in the national interest, he may, with the approval of the Office of Management and Budget, transfer not to exceed \$4,000,000,000 of working capital funds of the Department of Defense or funds made available in this Act to the Department of Defense for military functions (except military construction) between such appropriations or funds or any subdivision thereof, to be merged with and to be available for the same purposes, and for the same time period, as the appropriation or fund to which transferred: Provided, That such authority to transfer may not be used unless for higher priority items, based on unforeseen military requirements, than those for which originally appropriated and in no case where the item for which funds are requested has been denied by the Congress: Provided further, That the Secretary of Defense shall notify the Congress promptly of all transfers made pursuant to this authority or any other authority in this Act: Provided further, That no part of the funds in this Act shall be available to prepare or present a request to the Committees on Appropriations for reprogramming of funds, unless for higher priority items, based on unforeseen military requirements, than those for which originally appropriated and in no case where the item for which reprogramming is requested has been denied by the Congress: Provided further, That a request for multiple reprogrammings of funds using authority provided in this section must be made prior to June 30, 2010: Provided further, That transfers among military personnel appropriations shall not be taken into account for purposes of the limitation on the amount of funds that may be transferred under this section: Provided further, That no

obligation of funds may be made pursuant to section 1206 of Public Law 109-163 (or any successor provision) unless the Secretary of Defense has notified the congressional defense committees prior to any such obligation.

SEC. 8006. (a) Not later than 60 days after enactment of this Act, the Department of Defense shall submit a report to the congressional defense committees to establish the baseline for application of reprogramming and transfer authorities for fiscal year 2010: Provided, That the report shall include—

(1) a table for each appropriation with a separate column to display the President's budget request, adjustments made by Congress, adjustments due to enacted rescissions, if appropriate, and the fiscal year enacted level;

(2) a delineation in the table for each appropriation both by budget activity and program, project, and activity as detailed in the Budget Appendix; and

(3) an identification of items of special congressional interest.

(b) Notwithstanding section 8005 of this Act, none of the funds provided in this Act shall be available for reprogramming or transfer until the report identified in subsection (a) is submitted to the congressional defense committees, unless the Secretary of Defense certifies in writing to the congressional defense committees that such reprogramming or transfer is necessary as an emergency requirement.

SEC. 8007. The Secretaries of the Air Force and the Army are authorized, using funds available under the headings "Operation and Maintenance, Air Force" and "Operation and Maintenance, Army", to complete facility conversions and phased repair projects which may include upgrades and additions to Alaskan range infrastructure and training areas, and improved access to these ranges.

(TRANSFER OF FUNDS)

SEC. 8008. During the current fiscal year, cash balances in working capital funds of the Department of Defense established pursuant to section 2208 of title 10, United States Code, may be maintained in only such amounts as are necessary at any time for cash disbursements to be made from such funds: Provided, That transfers may be made between such funds: Provided further, That transfers may be made between working capital funds and the "Foreign Currency Fluctuations, Defense" appropriation and the "Operation and Maintenance" appropriation accounts in such amounts as may be determined by the Secretary of Defense, with the approval of the Office of Management and Budget, except that such transfers may not be made unless the Secretary of Defense has notified the Congress of the proposed transfer. Except in amounts equal to the amounts appropriated to working capital funds in this Act, no obligations may be made against a working capital fund to procure or increase the value of war reserve material inventory, unless the Secretary of Defense has notified the Congress prior to any such obligation.

SEC. 8009. Funds appropriated by this Act may not be used to initiate a special access program without prior notification 30 calendar days in advance to the congressional defense committees.

SEC. 8010. None of the funds provided in this Act shall be available to initiate: (1) a multiyear contract that employs economic order quantity procurement in excess of \$20,000,000 in any one year of the contract or that includes an unfunded contingent liability in excess of \$20,000,000; or (2) a contract for advance procurement leading to a multiyear contract that employs economic order quantity procurement in excess of \$20,000,000 in any one year, unless the congressional defense committees have been notified at least 30 days in advance of the proposed contract award: Provided, That no part of any appropriation contained in this Act shall be available to initiate a multiyear contract for which the economic order quantity advance pro-

curement is not funded at least to the limits of the Government's liability: Provided further, That no part of any appropriation contained in this Act shall be available to initiate multiyear procurement contracts for any systems or component thereof if the value of the multiyear contract would exceed \$500,000,000 unless specifically provided in this Act: Provided further, That no multiyear procurement contract can be terminated without 10-day prior notification to the congressional defense committees: Provided further, That the execution of multiyear authority shall require the use of a present value analysis to determine lowest cost compared to an annual procurement: Provided further, That none of the funds provided in this Act may be used for a multiyear contract executed after the date of the enactment of this Act unless in the case of any such contract—

(1) the Secretary of Defense has submitted to Congress a budget request for full funding of units to be procured through the contract and, in the case of a contract for procurement of aircraft, that includes, for any aircraft unit to be procured through the contract for which procurement funds are requested in that budget request for production beyond advance procurement activities in the fiscal year covered by the budget, full funding of procurement of such unit in that fiscal year;

(2) cancellation provisions in the contract do not include consideration of recurring manufacturing costs of the contractor associated with the production of unfunded units to be delivered under the contract;

(3) the contract provides that payments to the contractor under the contract shall not be made in advance of incurred costs on funded units; and

(4) the contract does not provide for a price adjustment based on a failure to award a follow-on contract.

SEC. 8011. Within the funds appropriated for the operation and maintenance of the Armed Forces, funds are hereby appropriated pursuant to section 401 of title 10, United States Code, for humanitarian and civic assistance costs under chapter 20 of title 10, United States Code. Such funds may also be obligated for humanitarian and civic assistance costs incidental to authorized operations and pursuant to authority granted in section 401 of chapter 20 of title 10, United States Code, and these obligations shall be reported as required by section 401(d) of title 10, United States Code: Provided, That funds available for operation and maintenance shall be available for providing humanitarian and similar assistance by using Civic Action Teams in the Trust Territories of the Pacific Islands and freely associated states of Micronesia, pursuant to the Compact of Free Association as authorized by Public Law 99-239: Provided further, That upon a determination by the Secretary of the Army that such action is beneficial for graduate medical education programs conducted at Army medical facilities located in Hawaii, the Secretary of the Army may authorize the provision of medical services at such facilities and transportation to such facilities, on a nonreimbursable basis, for civilian patients from American Samoa, the Commonwealth of the Northern Mariana Islands, the Marshall Islands, the Federated States of Micronesia, Palau, and Guam.

SEC. 8012. (a) During fiscal year 2010, the civilian personnel of the Department of Defense may not be managed on the basis of any end-strength, and the management of such personnel during that fiscal year shall not be subject to any constraint or limitation (known as an end-strength) on the number of such personnel who may be employed on the last day of such fiscal year.

(b) The fiscal year 2011 budget request for the Department of Defense as well as all justification material and other documentation supporting the fiscal year 2011 Department of Defense budget request shall be prepared and submitted to the Congress as if subsections (a) and (b) of this provision were effective with regard to fiscal year 2011.

(c) Nothing in this section shall be construed to apply to military (civilian) technicians.

SEC. 8013. None of the funds made available by this Act shall be used in any way, directly or indirectly, to influence congressional action on any legislation or appropriation matters pending before the Congress.

SEC. 8014. None of the funds appropriated by this Act shall be available for the basic pay and allowances of any member of the Army participating as a full-time student and receiving benefits paid by the Secretary of Veterans Affairs from the Department of Defense Education Benefits Fund when time spent as a full-time student is credited toward completion of a service commitment: Provided, That this section shall not apply to those members who have reenlisted with this option prior to October 1, 1987: Provided further, That this section applies only to active components of the Army.

SEC. 8015. (a) None of the funds appropriated by this Act shall be available to convert to contractor performance an activity or function of the Department of Defense that, on or after the date of the enactment of this Act, is performed by more than 10 Department of Defense civilian employees unless—

(1) the conversion is based on the result of a public-private competition that includes a most efficient and cost effective organization plan developed by such activity or function;

(2) the Competitive Sourcing Official determines that, over all performance periods stated in the solicitation of offers for performance of the activity or function, the cost of performance of the activity or function by a contractor would be less costly to the Department of Defense by an amount that equals or exceeds the lesser of—

(A) 10 percent of the most efficient organization's personnel-related costs for performance of that activity or function by Federal employees; or

(B) \$10,000,000; and

(3) the contractor does not receive an advantage for a proposal that would reduce costs for the Department of Defense by—

(A) not making an employer-sponsored health insurance plan available to the workers who are to be employed in the performance of that activity or function under the contract; or

(B) offering to such workers an employer-sponsored health benefits plan that requires the employer to contribute less towards the premium or subscription share than the amount that is paid by the Department of Defense for health benefits for civilian employees under chapter 89 of title 5, United States Code.

(b)(1) The Department of Defense, without regard to subsection (a) of this section or subsection (a), (b), or (c) of section 2461 of title 10, United States Code, and notwithstanding any administrative regulation, requirement, or policy to the contrary shall have full authority to enter into a contract for the performance of any commercial or industrial type function of the Department of Defense that—

(A) is included on the procurement list established pursuant to section 2 of the Javits-Wagner-O'Day Act (41 U.S.C. 47);

(B) is planned to be converted to performance by a qualified nonprofit agency for the blind or by a qualified nonprofit agency for other severely handicapped individuals in accordance with that Act; or

(C) is planned to be converted to performance by a qualified firm under at least 51 percent ownership by an Indian tribe, as defined in section 4(e) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(e)), or a Native Hawaiian Organization, as defined in

section 8(a)(15) of the Small Business Act (15 U.S.C. 637(a)(15)).

(2) This section shall not apply to depot contracts or contracts for depot maintenance as provided in sections 2469 and 2474 of title 10, United States Code.

(c) The conversion of any activity or function of the Department of Defense under the authority provided by this section shall be credited toward any competitive or outsourcing goal, target, or measurement that may be established by statute, regulation, or policy and is deemed to be awarded under the authority of, and in compliance with, subsection (h) of section 2304 of title 10, United States Code, for the competition or outsourcing of commercial activities.

#### (TRANSFER OF FUNDS)

SEC. 8016. Funds appropriated in title III of this Act for the Department of Defense Pilot Mentor-Protege Program may be transferred to any other appropriation contained in this Act solely for the purpose of implementing a Mentor-Protege Program developmental assistance agreement pursuant to section 831 of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101-510; 10 U.S.C. 2302 note), as amended, under the authority of this provision or any other transfer authority contained in this Act.

SEC. 8017. None of the funds in this Act may be available for the purchase by the Department of Defense (and its departments and agencies) of welded shipboard anchor and mooring chain 4 inches in diameter and under unless the anchor and mooring chain are manufactured in the United States from components which are substantially manufactured in the United States: Provided, That for the purpose of this section manufactured will include cutting, heat treating, quality control, testing of chain and welding (including the forging and shot blasting process): Provided further, That for the purpose of this section substantially all of the components of anchor and mooring chain shall be considered to be produced or manufactured in the United States if the aggregate cost of the components produced or manufactured in the United States exceeds the aggregate cost of the components produced or manufactured outside the United States: Provided further, That when adequate domestic supplies are not available to meet Department of Defense requirements on a timely basis, the Secretary of the service responsible for the procurement may waive this restriction on a case-by-case basis by certifying in writing to the Committees on Appropriations that such an acquisition must be made in order to acquire capability for national security purposes.

SEC. 8018. None of the funds available to the Department of Defense may be used to demilitarize or dispose of M-1 Carbines, M-1 Garand rifles, M-14 rifles, .22 caliber rifles, .30 caliber rifles, or M-1911 pistols.

SEC. 8019. No more than \$500,000 of the funds appropriated or made available in this Act shall be used during a single fiscal year for any single relocation of an organization, unit, activity or function of the Department of Defense into or within the National Capital Region: Provided, That the Secretary of Defense may waive this restriction on a case-by-case basis by certifying in writing to the congressional defense committees that such a relocation is required in the best interest of the Government.

SEC. 8020. In addition to the funds provided elsewhere in this Act, \$15,000,000 is appropriated only for incentive payments authorized by section 504 of the Indian Financing Act of 1974 (25 U.S.C. 1544): Provided, That a prime contractor or a subcontractor at any tier that makes a subcontract award to any subcontractor or supplier as defined in section 1544 of title 25, United States Code, or a small business owned and controlled by an individual or individuals defined under section 4221(9) of title 25, United States Code, shall be considered a contractor for the

purposes of being allowed additional compensation under section 504 of the Indian Financing Act of 1974 (25 U.S.C. 1544) whenever the prime contract or subcontract amount is over \$500,000 and involves the expenditure of funds appropriated by an Act making Appropriations for the Department of Defense with respect to any fiscal year: Provided further, That notwithstanding section 430 of title 41, United States Code, this section shall be applicable to any Department of Defense acquisition of supplies or services, including any contract and any subcontract at any tier for acquisition of commercial items produced or manufactured, in whole or in part by any subcontractor or supplier defined in section 1544 of title 25, United States Code, or a small business owned and controlled by an individual or individuals defined under section 4221(9) of title 25, United States Code.

SEC. 8021. Funds appropriated by this Act for the Defense Media Activity shall not be used for any national or international political or psychological activities.

SEC. 8022. None of the funds appropriated by this Act shall be available to perform any cost study pursuant to the provisions of OMB Circular A-76 if the study being performed exceeds a period of 24 months after initiation of such study with respect to a single function activity or 30 months after initiation of such study for a multi-function activity.

SEC. 8023. During the current fiscal year, the Department of Defense is authorized to incur obligations of not to exceed \$350,000,000 for purposes specified in section 2350j(c) of title 10, United States Code, in anticipation of receipt of contributions, only from the Government of Kuwait, under that section: Provided, That upon receipt, such contributions from the Government of Kuwait shall be credited to the appropriations or fund which incurred such obligations.

SEC. 8024. (a) Of the funds made available in this Act, not less than \$25,756,000 shall be available for the Civil Air Patrol Corporation, of which—

(1) \$22,433,000 shall be available from "Operation and Maintenance, Air Force" to support Civil Air Patrol Corporation operation and maintenance, readiness, counterdrug activities, and drug demand reduction activities involving youth programs;

(2) \$2,426,000 shall be available from "Aircraft Procurement, Air Force"; and

(3) \$897,000 shall be available from "Other Procurement, Air Force" for vehicle procurement.

(b) The Secretary of the Air Force should waive reimbursement for any funds used by the Civil Air Patrol for counter-drug activities in support of Federal, State, and local government agencies.

SEC. 8025. (a) None of the funds appropriated in this Act are available to establish a new Department of Defense (department) federally funded research and development center (FFRDC), either as a new entity, or as a separate entity administrated by an organization managing another FFRDC, or as a nonprofit membership corporation consisting of a consortium of other FFRDCs and other nonprofit entities.

(b) No member of a Board of Directors, Trustees, Overseers, Advisory Group, Special Issues Panel, Visiting Committee, or any similar entity of a defense FFRDC, and no paid consultant to any defense FFRDC, except when acting in a technical advisory capacity, may be compensated for his or her services as a member of such entity, or as a paid consultant by more than one FFRDC in a fiscal year: Provided, That a member of any such entity referred to previously in this subsection shall be allowed travel expenses and per diem as authorized under the Federal Joint Travel Regulations, when engaged in the performance of membership duties.

(c) Notwithstanding any other provision of law, none of the funds available to the department from any source during fiscal year 2010

may be used by a defense FFRDC, through a fee or other payment mechanism, for construction of new buildings, for payment of cost sharing for projects funded by Government grants, for absorption of contract overruns, or for certain charitable contributions, not to include employee participation in community service and/or development.

(d) Notwithstanding any other provision of law, of the funds available to the department during fiscal year 2010, not more than 5,600 staff years of technical effort (staff years) may be funded for defense FFRDCs: Provided, That of the specific amount referred to previously in this subsection, not more than 1,100 staff years may be funded for the defense studies and analysis FFRDCs: Provided further, That this subsection shall not apply to staff years funded in the National Intelligence Program (NIP) and the Military Intelligence Program (MIP).

(e) The Secretary of Defense shall, with the submission of the department's fiscal year 2011 budget request, submit a report presenting the specific amounts of staff years of technical effort to be allocated for each defense FFRDC during that fiscal year and the associated budget estimates.

(f) Notwithstanding any other provision of this Act, the total amount appropriated in this Act for FFRDCs is hereby reduced by \$120,200,000.

SEC. 8026. None of the funds appropriated or made available in this Act shall be used to procure carbon, alloy or armor steel plate for use in any Government-owned facility or property under the control of the Department of Defense which were not melted and rolled in the United States or Canada: Provided, That these procurement restrictions shall apply to any and all Federal Supply Class 9515, American Society of Testing and Materials (ASTM) or American Iron and Steel Institute (AISI) specifications of carbon, alloy or armor steel plate: Provided further, That the Secretary of the military department responsible for the procurement may waive this restriction on a case-by-case basis by certifying in writing to the Committees on Appropriations of the House of Representatives and the Senate that adequate domestic supplies are not available to meet Department of Defense requirements on a timely basis and that such an acquisition must be made in order to acquire capability for national security purposes: Provided further, That these restrictions shall not apply to contracts which are in being as of the date of the enactment of this Act.

SEC. 8027. For the purposes of this Act, the term "congressional defense committees" means the Armed Services Committee of the House of Representatives, the Armed Services Committee of the Senate, the Subcommittee on Defense of the Committee on Appropriations of the Senate, and the Subcommittee on Defense of the Committee on Appropriations of the House of Representatives.

SEC. 8028. During the current fiscal year, the Department of Defense may acquire the modification, depot maintenance and repair of aircraft, vehicles and vessels as well as the production of components and other Defense-related articles, through competition between Department of Defense depot maintenance activities and private firms: Provided, That the Senior Acquisition Executive of the military department or Defense Agency concerned, with power of delegation, shall certify that successful bids include comparable estimates of all direct and indirect costs for both public and private bids: Provided further, That Office of Management and Budget Circular A-76 shall not apply to competitions conducted under this section.

SEC. 8029. (a)(1) If the Secretary of Defense, after consultation with the United States Trade Representative, determines that a foreign country which is party to an agreement described in paragraph (2) has violated the terms of the agreement by discriminating against certain types of products produced in the United States

that are covered by the agreement, the Secretary of Defense shall rescind the Secretary's blanket waiver of the Buy American Act with respect to such types of products produced in that foreign country.

(2) An agreement referred to in paragraph (1) is any reciprocal defense procurement memorandum of understanding, between the United States and a foreign country pursuant to which the Secretary of Defense has prospectively waived the Buy American Act for certain products in that country.

(b) The Secretary of Defense shall submit to the Congress a report on the amount of Department of Defense purchases from foreign entities in fiscal year 2010. Such report shall separately indicate the dollar value of items for which the Buy American Act was waived pursuant to any agreement described in subsection (a)(2), the Trade Agreement Act of 1979 (19 U.S.C. 2501 et seq.), or any international agreement to which the United States is a party.

(c) For purposes of this section, the term "Buy American Act" means title III of the Act entitled "An Act making appropriations for the Treasury and Post Office Departments for the fiscal year ending June 30, 1934, and for other purposes", approved March 3, 1933 (41 U.S.C. 10a et seq.).

SEC. 8030. During the current fiscal year, amounts contained in the Department of Defense Overseas Military Facility Investment Recovery Account established by section 2921(c)(1) of the National Defense Authorization Act of 1991 (Public Law 101-510; 10 U.S.C. 2687 note) shall be available until expended for the payments specified by section 2921(c)(2) of that Act.

SEC. 8031. (a) Notwithstanding any other provision of law, the Secretary of the Air Force may convey at no cost to the Air Force, without consideration, to Indian tribes located in the States of Nevada, Idaho, North Dakota, South Dakota, Montana, Oregon, and Minnesota relocatable military housing units located at Grand Forks Air Force Base, Malmstrom Air Force Base, Mountain Home Air Force Base, Ellsworth Air Force Base, and Minot Air Force Base that are excess to the needs of the Air Force.

(b) The Secretary of the Air Force shall convey, at no cost to the Air Force, military housing units under subsection (a) in accordance with the request for such units that are submitted to the Secretary by the Operation Walking Shield Program on behalf of Indian tribes located in the States of Nevada, Idaho, North Dakota, South Dakota, Montana, Oregon, and Minnesota.

(c) The Operation Walking Shield Program shall resolve any conflicts among requests of Indian tribes for housing units under subsection (a) before submitting requests to the Secretary of the Air Force under subsection (b).

(d) In this section, the term "Indian tribe" means any recognized Indian tribe included on the current list published by the Secretary of the Interior under section 104 of the Federally Recognized Indian Tribe Act of 1994 (Public Law 103-454; 108 Stat. 4792; 25 U.S.C. 479a-1).

SEC. 8032. During the current fiscal year, appropriations which are available to the Department of Defense for operation and maintenance may be used to purchase items having an investment item unit cost of not more than \$250,000.

SEC. 8033. (a) During the current fiscal year, none of the appropriations or funds available to the Department of Defense Working Capital Funds shall be used for the purchase of an investment item for the purpose of acquiring a new inventory item for sale or anticipated sale during the current fiscal year or a subsequent fiscal year to customers of the Department of Defense Working Capital Funds if such an item would not have been chargeable to the Department of Defense Business Operations Fund during fiscal year 1994 and if the purchase of such an investment item would be chargeable during the current fiscal year to appropriations made to the Department of Defense for procurement.

(b) The fiscal year 2011 budget request for the Department of Defense as well as all justification material and other documentation supporting the fiscal year 2011 Department of Defense budget shall be prepared and submitted to the Congress on the basis that any equipment which was classified as an end item and funded in a procurement appropriation contained in this Act shall be budgeted for in a proposed fiscal year 2011 procurement appropriation and not in the supply management business area or any other area or category of the Department of Defense Working Capital Funds.

SEC. 8034. None of the funds appropriated by this Act for programs of the Central Intelligence Agency shall remain available for obligation beyond the current fiscal year, except for funds appropriated for the Reserve for Contingencies, which shall remain available until September 30, 2011: Provided, That funds appropriated, transferred, or otherwise credited to the Central Intelligence Agency Central Services Working Capital Fund during this or any prior or subsequent fiscal year shall remain available until expended: Provided further, That any funds appropriated or transferred to the Central Intelligence Agency for advanced research and development acquisition, for agent operations, and for covert action programs authorized by the President under section 503 of the National Security Act of 1947, as amended, shall remain available until September 30, 2011.

SEC. 8035. Notwithstanding any other provision of law, funds made available in this Act for the Defense Intelligence Agency may be used for the design, development, and deployment of General Defense Intelligence Program intelligence communications and intelligence information systems for the Services, the Unified and Specified Commands, and the component commands.

SEC. 8036. Of the funds appropriated to the Department of Defense under the heading "Operation and Maintenance, Defense-Wide", not less than \$12,000,000 shall be made available only for the mitigation of environmental impacts, including training and technical assistance to tribes, related administrative support, the gathering of information, documenting of environmental damage, and developing a system for prioritization of mitigation and cost to complete estimates for mitigation, on Indian lands resulting from Department of Defense activities.

SEC. 8037. (a) None of the funds appropriated in this Act may be expended by an entity of the Department of Defense unless the entity, in expending the funds, complies with the Buy American Act. For purposes of this subsection, the term "Buy American Act" means title III of the Act entitled "An Act making appropriations for the Treasury and Post Office Departments for the fiscal year ending June 30, 1934, and for other purposes", approved March 3, 1933 (41 U.S.C. 10a et seq.).

(b) If the Secretary of Defense determines that a person has been convicted of intentionally affixing a label bearing a "Made in America" inscription to any product sold in or shipped to the United States that is not made in America, the Secretary shall determine, in accordance with section 2410f of title 10, United States Code, whether the person should be debarred from contracting with the Department of Defense.

(c) In the case of any equipment or products purchased with appropriations provided under this Act, it is the sense of the Congress that any entity of the Department of Defense, in expending the appropriation, purchase only American-made equipment and products, provided that American-made equipment and products are cost-competitive, quality-competitive, and available in a timely fashion.

SEC. 8038. None of the funds appropriated by this Act shall be available for a contract for studies, analysis, or consulting services entered into without competition on the basis of an unsolicited proposal unless the head of the activity responsible for the procurement determines—

(1) as a result of thorough technical evaluation, only one source is found fully qualified to perform the proposed work;

(2) the purpose of the contract is to explore an unsolicited proposal which offers significant scientific or technological promise, represents the product of original thinking, and was submitted in confidence by one source; or

(3) the purpose of the contract is to take advantage of unique and significant industrial accomplishment by a specific concern, or to insure that a new product or idea of a specific concern is given financial support: Provided, That this limitation shall not apply to contracts in an amount of less than \$25,000, contracts related to improvements of equipment that is in development or production, or contracts as to which a civilian official of the Department of Defense, who has been confirmed by the Senate, determines that the award of such contract is in the interest of the national defense.

SEC. 8039. (a) Except as provided in subsections (b) and (c), none of the funds made available by this Act may be used—

(1) to establish a field operating agency; or

(2) to pay the basic pay of a member of the Armed Forces or civilian employee of the department who is transferred or reassigned from a headquarters activity if the member or employee's place of duty remains at the location of that headquarters.

(b) The Secretary of Defense or Secretary of a military department may waive the limitations in subsection (a), on a case-by-case basis, if the Secretary determines, and certifies to the Committees on Appropriations of the House of Representatives and Senate that the granting of the waiver will reduce the personnel requirements or the financial requirements of the department.

(c) This section does not apply to—

(1) field operating agencies funded within the National Intelligence Program; or

(2) an Army field operating agency established to eliminate, mitigate, or counter the effects of improvised explosive devices, and, as determined by the Secretary of the Army, other similar threats.

#### (RESCISSIONS)

SEC. 8040. Of the funds appropriated in Department of Defense Appropriations Acts, the following funds are hereby rescinded from the following accounts and programs in the specified amounts:

“Research, Development, Test and Evaluation, Air Force, 2009/2010”, \$110,230,000;

“Research, Development, Test and Evaluation, Defense-Wide, 2009/2010”, \$199,750,000;

“Procurement of Weapons and Tracked Combat Vehicles, Army, 2009/2011”, \$41,087,000;

“Other Procurement, Army, 2009/2011”, \$138,239,000;

“Aircraft Procurement, Air Force, 2009/2011”, \$628,900,000;

“Missile Procurement, Air Force, 2009/2011”, \$147,595,000;

“Other Procurement, Air Force, 2009/2011”, \$5,000,000;

“Procurement, Defense-Wide, 2009/2011”, \$5,200,000; and

“Procurement, Defense-Wide, 2008/2010”, \$2,000,000.

SEC. 8041. None of the funds available in this Act may be used to reduce the authorized positions for military (civilian) technicians of the Army National Guard, Air National Guard, Army Reserve and Air Force Reserve for the purpose of applying any administratively imposed civilian personnel ceiling, freeze, or reduction on military (civilian) technicians, unless such reductions are a direct result of a reduction in military force structure.

SEC. 8042. None of the funds appropriated or otherwise made available in this Act may be obligated or expended for assistance to the Democratic People's Republic of Korea unless specifically appropriated for that purpose.

SEC. 8043. Funds appropriated in this Act for operation and maintenance of the Military De-

partments, Combatant Commands and Defense Agencies shall be available for reimbursement of pay, allowances and other expenses which would otherwise be incurred against appropriations for the National Guard and Reserve when members of the National Guard and Reserve provide intelligence or counterintelligence support to Combatant Commands, Defense Agencies and Joint Intelligence Activities, including the activities and programs included within the National Intelligence Program and the Military Intelligence Program: Provided, That nothing in this section authorizes deviation from established Reserve and National Guard personnel and training procedures.

SEC. 8044. During the current fiscal year, none of the funds appropriated in this Act may be used to reduce the civilian medical and medical support personnel assigned to military treatment facilities below the September 30, 2003, level: Provided, That the Service Surgeons General may waive this section by certifying to the congressional defense committees that the beneficiary population is declining in some catchment areas and civilian strength reductions may be consistent with responsible resource stewardship and capitation-based budgeting.

SEC. 8045. (a) None of the funds available to the Department of Defense for any fiscal year for drug interdiction or counter-drug activities may be transferred to any other department or agency of the United States except as specifically provided in an appropriations law.

(b) None of the funds available to the Central Intelligence Agency for any fiscal year for drug interdiction and counter-drug activities may be transferred to any other department or agency of the United States except as specifically provided in an appropriations law.

SEC. 8046. None of the funds appropriated by this Act may be used for the procurement of ball and roller bearings other than those produced by a domestic source and of domestic origin: Provided, That the Secretary of the military department responsible for such procurement may waive this restriction on a case-by-case basis by certifying in writing to the Committees on Appropriations of the House of Representatives and the Senate, that adequate domestic supplies are not available to meet Department of Defense requirements on a timely basis and that such an acquisition must be made in order to acquire capability for national security purposes: Provided further, That this restriction shall not apply to the purchase of “commercial items”, as defined by section 4(12) of the Office of Federal Procurement Policy Act, except that the restriction shall apply to ball or roller bearings purchased as end items.

SEC. 8047. None of the funds in this Act may be used to purchase any supercomputer which is not manufactured in the United States, unless the Secretary of Defense certifies to the congressional defense committees that such an acquisition must be made in order to acquire capability for national security purposes that is not available from United States manufacturers.

SEC. 8048. None of the funds made available in this or any other Act may be used to pay the salary of any officer or employee of the Department of Defense who approves or implements the transfer of administrative responsibilities or budgetary resources of any program, project, or activity financed by this Act to the jurisdiction of another Federal agency not financed by this Act without the express authorization of Congress: Provided, That this limitation shall not apply to transfers of funds expressly provided for in Defense Appropriations Acts, or provisions of Acts providing supplemental appropriations for the Department of Defense.

SEC. 8049. (a) Notwithstanding any other provision of law, none of the funds available to the Department of Defense for the current fiscal year may be obligated or expended to transfer to another nation or an international organization any defense articles or services (other than in-

telligence services) for use in the activities described in subsection (b) unless the congressional defense committees, the Committee on Foreign Affairs of the House of Representatives, and the Committee on Foreign Relations of the Senate are notified 15 days in advance of such transfer.

(b) This section applies to—

(1) any international peacekeeping or peace-enforcement operation under the authority of chapter VI or chapter VII of the United Nations Charter under the authority of a United Nations Security Council resolution; and

(2) any other international peacekeeping, peace-enforcement, or humanitarian assistance operation.

(c) A notice under subsection (a) shall include the following—

(1) A description of the equipment, supplies, or services to be transferred.

(2) A statement of the value of the equipment, supplies, or services to be transferred.

(3) In the case of a proposed transfer of equipment or supplies—

(A) a statement of whether the inventory requirements of all elements of the Armed Forces (including the reserve components) for the type of equipment or supplies to be transferred have been met; and

(B) a statement of whether the items proposed to be transferred will have to be replaced and, if so, how the President proposes to provide funds for such replacement.

SEC. 8050. None of the funds available to the Department of Defense under this Act shall be obligated or expended to pay a contractor under a contract with the Department of Defense for costs of any amount paid by the contractor to an employee when—

(1) such costs are for a bonus or otherwise in excess of the normal salary paid by the contractor to the employee; and

(2) such bonus is part of restructuring costs associated with a business combination.

#### (INCLUDING TRANSFER OF FUNDS)

SEC. 8051. During the current fiscal year, no more than \$30,000,000 of appropriations made in this Act under the heading “Operation and Maintenance, Defense-Wide” may be transferred to appropriations available for the pay of military personnel, to be merged with, and to be available for the same time period as the appropriations to which transferred, to be used in support of such personnel in connection with support and services for eligible organizations and activities outside the Department of Defense pursuant to section 2012 of title 10, United States Code.

SEC. 8052. (a) IN GENERAL.—Service as a member of the Alaska Territorial Guard during World War II of any individual who was honorably discharged therefrom under section 8147 of the Department of Defense Appropriations Act, 2001 (Public Law 106-259; 114 Stat. 705) shall be treated as active service for purposes of the computation under chapter 61, 71, 371, 571, 871, or 1223 of title 10, United States Code, as applicable, of the retired pay to which such individual may be entitled under title 10, United States Code.

(b) APPLICABILITY.—Subsection (a) shall apply with respect to amounts of retired pay payable under title 10, United States Code, for months beginning on or after the date of the enactment of this Act. No retired pay shall be paid to any individual by reason of subsection (a) for any period before that date.

(c) WORLD WAR II DEFINED.—In this section, the term “World War II” has the meaning given that term in section 101(8) of title 38, United States Code.

SEC. 8053. (a) Notwithstanding any other provision of law, the Chief of the National Guard Bureau may permit the use of equipment of the National Guard Distance Learning Project by any person or entity on a space-available, reimbursable basis. The Chief of the National Guard

Bureau shall establish the amount of reimbursement for such use on a case-by-case basis.

(b) Amounts collected under subsection (a) shall be credited to funds available for the National Guard Distance Learning Project and be available to defray the costs associated with the use of equipment of the project under that subsection. Such funds shall be available for such purposes without fiscal year limitation.

SEC. 8054. Using funds available by this Act or any other Act, the Secretary of the Air Force, pursuant to a determination under section 2690 of title 10, United States Code, may implement cost-effective agreements for required heating facility modernization in the Kaiserslautern Military Community in the Federal Republic of Germany: Provided, That in the City of Kaiserslautern such agreements will include the use of United States anthracite as the base load energy for municipal district heat to the United States Defense installations: Provided further, That at Landstuhl Army Regional Medical Center and Ramstein Air Base, furnished heat may be obtained from private, regional or municipal services, if provisions are included for the consideration of United States coal as an energy source.

SEC. 8055. None of the funds appropriated in title IV of this Act may be used to procure end-items for delivery to military forces for operational training, operational use or inventory requirements: Provided, That this restriction does not apply to end-items used in development, prototyping, and test activities preceding and leading to acceptance for operational use: Provided further, That this restriction does not apply to programs funded within the National Intelligence Program: Provided further, That the Secretary of Defense may waive this restriction on a case-by-case basis by certifying in writing to the Committees on Appropriations of the House of Representatives and the Senate that it is in the national security interest to do so.

SEC. 8056. None of the funds made available in this Act may be used to approve or license the sale of the F-22A advanced tactical fighter to any foreign government: Provided, That the Department of Defense may conduct or participate in studies, research, design and other activities to define and develop a future export version of the F-22A that protects classified and sensitive information, technologies and U.S. warfighting capabilities.

SEC. 8057. (a) The Secretary of Defense may, on a case-by-case basis, waive with respect to a foreign country each limitation on the procurement of defense items from foreign sources provided in law if the Secretary determines that the application of the limitation with respect to that country would invalidate cooperative programs entered into between the Department of Defense and the foreign country, or would invalidate reciprocal trade agreements for the procurement of defense items entered into under section 2531 of title 10, United States Code, and the country does not discriminate against the same or similar defense items produced in the United States for that country.

(b) Subsection (a) applies with respect to—

(1) contracts and subcontracts entered into on or after the date of the enactment of this Act; and

(2) options for the procurement of items that are exercised after such date under contracts that are entered into before such date if the option prices are adjusted for any reason other than the application of a waiver granted under subsection (a).

(c) Subsection (a) does not apply to a limitation regarding construction of public vessels, ball and roller bearings, food, and clothing or textile materials as defined by section 11 (chapters 50–65) of the Harmonized Tariff Schedule and products classified under headings 4010, 4202, 4203, 6401 through 6406, 6505, 7019, 7218 through 7229, 7304.41 through 7304.49, 7306.40, 7502 through 7508, 8105, 8108, 8109, 8211, 8215, and 9404.

SEC. 8058. (a) None of the funds made available by this Act may be used to support any training program involving a unit of the security forces of a foreign country if the Secretary of Defense has received credible information from the Department of State that the unit has committed a gross violation of human rights, unless all necessary corrective steps have been taken.

(b) The Secretary of Defense, in consultation with the Secretary of State, shall ensure that prior to a decision to conduct any training program referred to in subsection (a), full consideration is given to all credible information available to the Department of State relating to human rights violations by foreign security forces.

(c) The Secretary of Defense, after consultation with the Secretary of State, may waive the prohibition in subsection (a) if he determines that such waiver is required by extraordinary circumstances.

(d) Not more than 15 days after the exercise of any waiver under subsection (c), the Secretary of Defense shall submit a report to the congressional defense committees describing the extraordinary circumstances, the purpose and duration of the training program, the United States forces and the foreign security forces involved in the training program, and the information relating to human rights violations that necessitates the waiver.

SEC. 8059. None of the funds appropriated or made available in this Act to the Department of the Navy shall be used to develop, lease or procure the T-AKE class of ships unless the main propulsion diesel engines and propulsors are manufactured in the United States by a domestically operated entity: Provided, That the Secretary of Defense may waive this restriction on a case-by-case basis by certifying in writing to the Committees on Appropriations of the House of Representatives and the Senate that adequate domestic supplies are not available to meet Department of Defense requirements on a timely basis and that such an acquisition must be made in order to acquire capability for national security purposes or there exists a significant cost or quality difference.

SEC. 8060. None of the funds appropriated or otherwise made available by this or other Department of Defense Appropriations Acts may be obligated or expended for the purpose of performing repairs or maintenance to military family housing units of the Department of Defense, including areas in such military family housing units that may be used for the purpose of conducting official Department of Defense business.

SEC. 8061. Notwithstanding any other provision of law, funds appropriated in this Act under the heading "Research, Development, Test and Evaluation, Defense-Wide" for any new start advanced concept technology demonstration project or joint capability demonstration project may only be obligated 30 days after a report, including a description of the project, the planned acquisition and transition strategy and its estimated annual and total cost, has been provided in writing to the congressional defense committees: Provided, That the Secretary of Defense may waive this restriction on a case-by-case basis by certifying to the congressional defense committees that it is in the national interest to do so.

SEC. 8062. The Secretary of Defense shall provide a classified quarterly report beginning 30 days after enactment of this Act, to the House and Senate Appropriations Committees, Subcommittees on Defense on certain matters as directed in the classified annex accompanying this Act.

SEC. 8063. During the current fiscal year, none of the funds available to the Department of Defense may be used to provide support to another department or agency of the United States if such department or agency is more than 90 days in arrears in making payment to the Department of Defense for goods or services previously

provided to such department or agency on a reimbursable basis: Provided, That this restriction shall not apply if the department is authorized by law to provide support to such department or agency on a nonreimbursable basis, and is providing the requested support pursuant to such authority: Provided further, That the Secretary of Defense may waive this restriction on a case-by-case basis by certifying in writing to the Committees on Appropriations of the House of Representatives and the Senate that it is in the national security interest to do so.

SEC. 8064. Notwithstanding section 12310(b) of title 10, United States Code, a Reserve who is a member of the National Guard serving on full-time National Guard duty under section 502(f) of title 32, United States Code, may perform duties in support of the ground-based elements of the National Ballistic Missile Defense System.

SEC. 8065. None of the funds provided in this Act may be used to transfer to any nongovernmental entity ammunition held by the Department of Defense that has a center-fire cartridge and a United States military nomenclature designation of "armor penetrator", "armor piercing (AP)", "armor piercing incendiary (API)", or "armor-piercing incendiary-tracer (API-T)", except to an entity performing demilitarization services for the Department of Defense under a contract that requires the entity to demonstrate to the satisfaction of the Department of Defense that armor piercing projectiles are either: (1) rendered incapable of reuse by the demilitarization process; or (2) used to manufacture ammunition pursuant to a contract with the Department of Defense or the manufacture of ammunition for export pursuant to a License for Permanent Export of Unclassified Military Articles issued by the Department of State.

SEC. 8066. Notwithstanding any other provision of law, the Chief of the National Guard Bureau, or his designee, may waive payment of all or part of the consideration that otherwise would be required under section 2667 of title 10, United States Code, in the case of a lease of personal property for a period not in excess of 1 year to any organization specified in section 508(d) of title 32, United States Code, or any other youth, social, or fraternal nonprofit organization as may be approved by the Chief of the National Guard Bureau, or his designee, on a case-by-case basis.

SEC. 8067. None of the funds appropriated by this Act shall be used for the support of any nonappropriated funds activity of the Department of Defense that procures malt beverages and wine with nonappropriated funds for resale (including such alcoholic beverages sold by the drink) on a military installation located in the United States unless such malt beverages and wine are procured within that State, or in the case of the District of Columbia, within the District of Columbia, in which the military installation is located: Provided, That in a case in which the military installation is located in more than one State, purchases may be made in any State in which the installation is located: Provided further, That such local procurement requirements for malt beverages and wine shall apply to all alcoholic beverages only for military installations in States which are not contiguous with another State: Provided further, That alcoholic beverages other than wine and malt beverages, in contiguous States and the District of Columbia shall be procured from the most competitive source, price and other factors considered.

SEC. 8068. Funds available to the Department of Defense for the Global Positioning System during the current fiscal year may be used to fund civil requirements associated with the satellite and ground control segments of such system's modernization program.



## (INCLUDING TRANSFER OF FUNDS)

SEC. 8069. Of the amounts appropriated in this Act under the heading "Operation and Maintenance, Army", \$106,754,000 shall remain available until expended: Provided, That notwithstanding any other provision of law, the Secretary of Defense is authorized to transfer such funds to other activities of the Federal Government: Provided further, That the Secretary of Defense is authorized to enter into and carry out contracts for the acquisition of real property, construction, personal services, and operations related to projects carrying out the purposes of this section: Provided further, That contracts entered into under the authority of this section may provide for such indemnification as the Secretary determines to be necessary: Provided further, That projects authorized by this section shall comply with applicable Federal, State, and local law to the maximum extent consistent with the national security, as determined by the Secretary of Defense.

SEC. 8070. Section 8106 of the Department of Defense Appropriations Act, 1997 (titles I through VIII of the matter under subsection 101(b) of Public Law 104-208; 110 Stat. 3009-111; 10 U.S.C. 113 note) shall continue in effect to apply to disbursements that are made by the Department of Defense in fiscal year 2010.

## (INCLUDING TRANSFER OF FUNDS)

SEC. 8071. Of the amounts appropriated in this Act under the heading "Research, Development, Test and Evaluation, Defense-Wide", \$202,434,000 shall be for the Israeli Cooperative Programs: Provided, That of this amount, \$80,092,000 shall be for the Short Range Ballistic Missile Defense (SRBMD) program, \$50,036,000 shall be available for an upper-tier component to the Israeli Missile Defense Architecture, and \$72,306,000 shall be for the Arrow Missile Defense Program, of which \$25,000,000 shall be for producing Arrow missile components in the United States and Arrow missile components in Israel to meet Israel's defense requirements, consistent with each nation's laws, regulations and procedures: Provided further, That funds made available under this provision for production of missiles and missile components may be transferred to appropriations available for the procurement of weapons and equipment, to be merged with and to be available for the same time period and the same purposes as the appropriation to which transferred: Provided further, That the transfer authority provided under this provision is in addition to any other transfer authority contained in this Act.

## (INCLUDING TRANSFER OF FUNDS)

SEC. 8072. Of the amounts appropriated in this Act under the heading "Shipbuilding and Conversion, Navy", \$144,950,000 shall be available until September 30, 2010, to fund prior year shipbuilding cost increases: Provided, That upon enactment of this Act, the Secretary of the Navy shall transfer such funds to the following appropriations in the amounts specified: Provided further, That the amounts transferred shall be merged with and be available for the same purposes as the appropriations to which transferred:

To:

Under the heading "Shipbuilding and Conversion, Navy, 2004/2010":

New SSN, \$26,906,000; and

LPD-17 Amphibious Transport Dock Program, \$16,844,000.

Under the heading "Shipbuilding and Conversion, Navy, 2005/2010":

New SSN, \$18,702,000; and

LPD-17 Amphibious Transport Dock Program, \$16,498,000.

Under the heading "Shipbuilding and Conversion, Navy, 2008/2012":

LPD-17 Amphibious Transport Dock Program, \$66,000,000.

SEC. 8073. None of the funds available to the Department of Defense may be obligated to mod-

ify command and control relationships to give Fleet Forces Command administrative and operational control of U.S. Navy forces assigned to the Pacific fleet: Provided, That the command and control relationships which existed on October 1, 2004, shall remain in force unless changes are specifically authorized in a subsequent Act.

SEC. 8074. Notwithstanding any other provision of law or regulation, the Secretary of Defense may exercise the provisions of section 7403(g) of title 38, United States Code, for occupations listed in section 7403(a)(2) of title 38, United States Code, as well as the following:

Pharmacists, Audiologists, Psychologists, Social Workers, Othotists/Prosthetists, Occupational Therapists, Physical Therapists, Rehabilitation Therapists, Respiratory Therapists, Speech Pathologists, Dietitian/Nutritionists, Industrial Hygienists, Psychology Technicians, Social Service Assistants, Practical Nurses, Nursing Assistants, and Dental Hygienists:

(A) The requirements of section 7403(g)(1)(A) of title 38, United States Code, shall apply.

(B) The limitations of section 7403(g)(1)(B) of title 38, United States Code, shall not apply.

SEC. 8075. Funds appropriated by this Act, or made available by the transfer of funds in this Act, for intelligence activities are deemed to be specifically authorized by the Congress for purposes of section 504 of the National Security Act of 1947 (50 U.S.C. 414) during fiscal year 2010 until the enactment of the Intelligence Authorization Act for Fiscal Year 2010.

SEC. 8076. None of the funds provided in this Act shall be available for obligation or expenditure through a reprogramming of funds that creates or initiates a new program, project, or activity unless such program, project, or activity must be undertaken immediately in the interest of national security and only after written prior notification to the congressional defense committees.

SEC. 8077. In addition to funds made available elsewhere in this Act, \$5,500,000 is hereby appropriated and shall remain available until expended to provide assistance, by grant or otherwise (such as the provision of funds for information technology and textbook purchases, professional development for educators, and student transition support) to public schools in states that are considered overseas assignments with unusually high concentrations of special needs military dependents enrolled: Provided, That up to 2 percent of the total appropriated funds under this section shall be available for the administration and execution of the programs and/or events that promote the purpose of this appropriation: Provided further, That up to 5 percent of the total appropriated funds under this section shall be available to public schools that have entered into a military partnership: Provided further, That \$1,000,000 shall be available for a nonprofit trust fund to assist in the public-private funding of public school repair and maintenance projects: Provided further, That \$500,000 shall be available to fund an ongoing special education support program in public schools with unusually high concentrations of active duty military dependents enrolled: Provided further, That to the extent a Federal agency provides this assistance by contract, grant, or otherwise, it may accept and expend non-Federal funds in combination with these Federal funds to provide assistance for the authorized purpose.

SEC. 8078. In addition to the amounts appropriated or otherwise made available elsewhere in this Act, \$50,500,000 is hereby appropriated to the Department of Defense: Provided, That the Secretary of Defense shall make grants in the amounts specified as follows: \$20,000,000 to the Edward M. Kennedy Institute for the Senate; \$5,500,000 to the U.S.S. Missouri Memorial Association; and \$25,000,000 to the National World War II Museum.

SEC. 8079. The budget of the President for fiscal year 2011 submitted to the Congress pursuant to section 1105 of title 31, United States

Code, shall include separate budget justification documents for costs of United States Armed Forces' participation in contingency operations for the Military Personnel accounts, the Operation and Maintenance accounts, and the Procurement accounts: Provided, That these documents shall include a description of the funding requested for each contingency operation, for each military service, to include all Active and Reserve components, and for each appropriations account: Provided further, That these documents shall include estimated costs for each element of expense or object class, a reconciliation of increases and decreases for each contingency operation, and programmatic data including, but not limited to, troop strength for each Active and Reserve component, and estimates of the major weapons systems deployed in support of each contingency: Provided further, That these documents shall include budget exhibits OP-5 and OP-32 (as defined in the Department of Defense Financial Management Regulation) for all contingency operations for the budget year and the two preceding fiscal years.

SEC. 8080. None of the funds in this Act may be used for research, development, test, evaluation, procurement or deployment of nuclear armed interceptors of a missile defense system.

SEC. 8081. None of the funds appropriated or made available in this Act shall be used to reduce or disestablish the operation of the 53rd Weather Reconnaissance Squadron of the Air Force Reserve, if such action would reduce the levels funded in this Act: Provided, That the Air Force shall allow the 53rd Weather Reconnaissance Squadron to perform other missions in support of national defense requirements during the non-hurricane season.

SEC. 8082. None of the funds provided in this Act shall be available for integration of foreign intelligence information unless the information has been lawfully collected and processed during the conduct of authorized foreign intelligence activities: Provided, That information pertaining to United States persons shall only be handled in accordance with protections provided in the Fourth Amendment of the United States Constitution as implemented through Executive Order No. 12333.

SEC. 8083. (a) At the time members of reserve components of the Armed Forces are called or ordered to active duty under section 12302(a) of title 10, United States Code, each member shall be notified in writing of the expected period during which the member will be mobilized.

(b) The Secretary of Defense may waive the requirements of subsection (a) in any case in which the Secretary determines that it is necessary to do so to respond to a national security emergency or to meet dire operational requirements of the Armed Forces.

## (INCLUDING TRANSFER OF FUNDS)

SEC. 8084. The Secretary of Defense may transfer funds from any available Department of the Navy appropriation to any available Navy ship construction appropriation for the purpose of liquidating necessary changes resulting from inflation, market fluctuations, or rate adjustments for any ship construction program appropriated in law: Provided, That the Secretary may transfer not to exceed \$100,000,000 under the authority provided by this section: Provided further, That the Secretary may not transfer any funds until 30 days after the proposed transfer has been reported to the Committees on Appropriations of the House of Representatives and the Senate, unless a response from the Committees is received sooner: Provided further, That the transfer authority provided by this section is in addition to any other transfer authority contained elsewhere in this Act.

SEC. 8085. For purposes of section 612 of title 41, United States Code, any subdivision of appropriations made under the heading "Shipbuilding and Conversion, Navy" that is not closed at the time reimbursement is made shall

be available to reimburse the Judgment Fund and shall be considered for the same purposes as any subdivision under the heading "Shipbuilding and Conversion, Navy" appropriations in the current fiscal year or any prior fiscal year.

SEC. 8086. (a) None of the funds appropriated by this Act may be used to transfer research and development, acquisition, or other program authority relating to current tactical unmanned aerial vehicles (TUAVs) from the Army.

(b) The Army shall retain responsibility for and operational control of the MQ-1C Sky Warrior Unmanned Aerial Vehicle (UAV) in order to support the Secretary of Defense in matters relating to the employment of unmanned aerial vehicles.

SEC. 8087. Of the funds provided in this Act, \$10,000,000 shall be available for the operations and development of training and technology for the Joint Interagency Training and Education Center and the affiliated Center for National Response at the Memorial Tunnel and for providing homeland defense/security and traditional warfighting training to the Department of Defense, other Federal agencies, and State and local first responder personnel at the Joint Interagency Training and Education Center.

SEC. 8088. Notwithstanding any other provision of law or regulation, the Secretary of Defense may adjust wage rates for civilian employees hired for certain health care occupations as authorized for the Secretary of Veterans Affairs by section 7455 of title 38, United States Code.

SEC. 8089. Up to \$16,000,000 of the funds appropriated under the heading "Operation and Maintenance, Navy" may be made available for the Asia Pacific Regional Initiative Program for the purpose of enabling the Pacific Command to execute Theater Security Cooperation activities such as humanitarian assistance, and payment of incremental and personnel costs of training and exercising with foreign security forces: Provided, That funds made available for this purpose may be used, notwithstanding any other funding authorities for humanitarian assistance, security assistance or combined exercise expenses: Provided further, That funds may not be obligated to provide assistance to any foreign country that is otherwise prohibited from receiving such type of assistance under any other provision of law.

SEC. 8090. None of the funds appropriated by this Act for programs of the Office of the Director of National Intelligence shall remain available for obligation beyond the current fiscal year, except for funds appropriated for research and technology, which shall remain available until September 30, 2011.

SEC. 8091. Notwithstanding any other provision of this Act, to reflect savings from revised economic assumptions, the total amount appropriated in title II of this Act is hereby reduced by \$294,000,000, the total amount appropriated in title III of this Act is hereby reduced by \$322,000,000, the total amount appropriated in title IV of this Act is hereby reduced by \$236,000,000, and the total amount appropriated in title V of this Act is hereby reduced by \$9,000,000: Provided, That the Secretary of Defense shall allocate this reduction proportionally to each budget activity, activity group, sub-activity group, and each program, project, and activity, within each appropriation account.

SEC. 8092. For purposes of section 1553(b) of title 31, United States Code, any subdivision of appropriations made in this Act under the heading "Shipbuilding and Conversion, Navy" shall be considered to be for the same purpose as any subdivision under the heading "Shipbuilding and Conversion, Navy" appropriations in any prior fiscal year, and the 1 percent limitation shall apply to the total amount of the appropriation.

SEC. 8093. Notwithstanding any other provision of law, that not more than 35 percent of funds provided in this Act for environmental remediation may be obligated under indefinite de-

livery/indefinite quantity contracts with a total contract value of \$130,000,000 or higher.

SEC. 8094. The Director of National Intelligence shall include the budget exhibits identified in paragraphs (1) and (2) as described in the Department of Defense Financial Management Regulation with the congressional budget justification books.

(1) For procurement programs requesting more than \$20,000,000 in any fiscal year, the P-1, Procurement Program; P-5, Cost Analysis; P-5a, Procurement History and Planning; P-21, Production Schedule; and P-40 Budget Item Justification.

(2) For research, development, test and evaluation projects requesting more than \$10,000,000 in any fiscal year, the R-1, RDT&E Program; R-2, RDT&E Budget Item Justification; R-3, RDT&E Project Cost Analysis; and R-4, RDT&E Program Schedule Profile.

SEC. 8095. None of the funds made available in this Act may be used in contravention of the following laws enacted or regulations promulgated to implement the United Nations Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (done at New York on December 10, 1984):

(1) Section 2340A of title 18, United States Code.

(2) Section 2242 of the Foreign Affairs Reform and Restructuring Act of 1998 (division G of Public Law 105-277; 112 Stat. 2681-822; 8 U.S.C. 1231 note) and regulations prescribed thereto, including regulations under part 208 of title 8, Code of Federal Regulations, and part 95 of title 22, Code of Federal Regulations.

(3) Sections 1002 and 1003 of the Department of Defense, Emergency Supplemental Appropriations to Address Hurricanes in the Gulf of Mexico, and Pandemic Influenza Act, 2006 (Public Law 109-148).

SEC. 8096. (a) Not later than 60 days after enactment of this Act, the Office of the Director of National Intelligence shall submit a report to the congressional intelligence committees to establish the baseline for application of reprogramming and transfer authorities for fiscal year 2010: Provided, That the report shall include—

(1) a table for each appropriation with a separate column to display the President's budget request, adjustments made by Congress, adjustments due to enacted rescissions, if appropriate, and the fiscal year enacted level;

(2) a delineation in the table for each appropriation by Expenditure Center and project; and

(3) an identification of items of special congressional interest.

(b) None of the funds provided for the National Intelligence Program in this Act shall be available for reprogramming or transfer until the report identified in subsection (a) is submitted to the congressional intelligence committees, unless the Director of National Intelligence certifies in writing to the congressional intelligence committees that such reprogramming or transfer is necessary as an emergency requirement.

SEC. 8097. The Director of National Intelligence shall submit to Congress each year, at or about the time that the President's budget is submitted to Congress that year under section 1105(a) of title 31, United States Code, a future-years intelligence program (including associated annexes) reflecting the estimated expenditures and proposed appropriations included in that budget. Any such future-years intelligence program shall cover the fiscal year with respect to which the budget is submitted and at least the four succeeding fiscal years.

SEC. 8098. For the purposes of this Act, the term "congressional intelligence committees" means the Permanent Select Committee on Intelligence of the House of Representatives, the Select Committee on Intelligence of the Senate, the Subcommittee on Defense of the Committee on Appropriations of the House of Representatives, and the Subcommittee on Defense of the Committee on Appropriations of the Senate.

SEC. 8099. The Department of Defense shall continue to report incremental contingency operations costs for Operation Iraqi Freedom and Operation Enduring Freedom on a monthly basis in the Cost of War Execution Report as prescribed in the Department of Defense Financial Management Regulation Department of Defense Instruction 7000.14, Volume 12, Chapter 23 "Contingency Operations", Annex 1, dated September 2005.

SEC. 8100. The amounts appropriated in title II of this Act are hereby reduced by \$500,000,000 to reflect excess cash balances in Department of Defense Working Capital Funds, as follows:

From "Operation and Maintenance, Air Force", \$500,000,000.

SEC. 8101. During the current fiscal year, not to exceed \$10,000,000 from each of the appropriations made in title III of this Act for "Operation and Maintenance, Army", "Operation and Maintenance, Navy", and "Operation and Maintenance, Air Force" may be transferred by the military department concerned to its central fund established for Fisher Houses and Suites pursuant to section 2493(d) of title 10, United States Code.

SEC. 8102. Of the funds appropriated in the Intelligence Community Management Account for the Program Manager for the Information Sharing Environment, \$24,000,000 is available for transfer by the Director of National Intelligence to other departments and agencies for purposes of Government-wide information sharing activities: Provided, That funds transferred under this provision are to be merged with and available for the same purposes and time period as the appropriation to which transferred: Provided further, That the Office of Management and Budget must approve any transfers made under this provision.

SEC. 8103. Funds appropriated by this Act for operation and maintenance shall be available for the purpose of making remittances to the Defense Acquisition Workforce Development Fund in accordance with the requirements of section 1705 of title 10, United States Code.

#### TITLE IX

##### OVERSEAS CONTINGENCY OPERATIONS

###### MILITARY PERSONNEL

###### MILITARY PERSONNEL, ARMY

For an additional amount for "Military Personnel, Army", \$9,597,340,000.

###### MILITARY PERSONNEL, NAVY

For an additional amount for "Military Personnel, Navy", \$1,175,601,000.

###### MILITARY PERSONNEL, MARINE CORPS

For an additional amount for "Military Personnel, Marine Corps", \$670,722,000.

###### MILITARY PERSONNEL, AIR FORCE

For an additional amount for "Military Personnel, Air Force", \$1,445,376,000.

###### RESERVE PERSONNEL, ARMY

For an additional amount for "Reserve Personnel, Army", \$293,637,000.

###### RESERVE PERSONNEL, NAVY

For an additional amount for "Reserve Personnel, Navy", \$37,040,000.

###### RESERVE PERSONNEL, MARINE CORPS

For an additional amount for "Reserve Personnel, Marine Corps", \$31,337,000.

###### RESERVE PERSONNEL, AIR FORCE

For an additional amount for "Reserve Personnel, Air Force", \$19,822,000.

###### NATIONAL GUARD PERSONNEL, ARMY

For an additional amount for "National Guard Personnel, Army", \$824,966,000.

###### NATIONAL GUARD PERSONNEL, AIR FORCE

For an additional amount for "National Guard Personnel, Air Force", \$9,500,000.

##### OPERATION AND MAINTENANCE

###### OPERATION AND MAINTENANCE, ARMY

For an additional amount for "Operation and Maintenance, Army", \$51,928,167,000.

## OPERATION AND MAINTENANCE, NAVY

For an additional amount for "Operation and Maintenance, Navy", \$5,899,597,000.

## OPERATION AND MAINTENANCE, MARINE CORPS

For an additional amount for "Operation and Maintenance, Marine Corps", \$3,775,270,000.

## OPERATION AND MAINTENANCE, AIR FORCE

For an additional amount for "Operation and Maintenance, Air Force", \$9,929,868,000.

## OPERATION AND MAINTENANCE, DEFENSE-WIDE

For an additional amount for "Operation and Maintenance, Defense-Wide", \$7,550,900,000, of which:

(1) Not to exceed \$12,500,000 for the Combatant Commander Initiative Fund, to be used in support of Operation Iraqi Freedom and Operation Enduring Freedom; and

(2) Not to exceed \$1,600,000,000, to remain available until expended, for payments to reimburse key cooperating nations for logistical, military, and other support, including access provided to United States military operations in support of Operation Iraqi Freedom and Operation Enduring Freedom, notwithstanding any other provision of law: Provided, That such reimbursement payments may be made in such amounts as the Secretary of Defense, with the concurrence of the Secretary of State, and in consultation with the Director of the Office of Management and Budget, may determine, in his discretion, based on documentation determined by the Secretary of Defense to adequately account for the support provided, and such determination is final and conclusive upon the accounting officers of the United States, and 15 days following notification to the appropriate congressional committees: Provided further, That these funds may be used for the purpose of providing specialized training and procuring supplies and specialized equipment and providing such supplies and loaning such equipment on a non-reimbursable basis to coalition forces supporting United States military operations in Iraq and Afghanistan, and 15 days following notification to the appropriate congressional committees: Provided further, That the Secretary of Defense shall provide quarterly reports to the congressional defense committees on the use of funds provided in this paragraph.

## OPERATION AND MAINTENANCE, ARMY RESERVE

For an additional amount for "Operation and Maintenance, Army Reserve", \$234,898,000.

## OPERATION AND MAINTENANCE, NAVY RESERVE

For an additional amount for "Operation and Maintenance, Navy Reserve", \$68,059,000.

## OPERATION AND MAINTENANCE, MARINE CORPS RESERVE

For an additional amount for "Operation and Maintenance, Marine Corps Reserve", \$86,667,000.

## OPERATION AND MAINTENANCE, AIR FORCE RESERVE

For an additional amount for "Operation and Maintenance, Air Force Reserve", \$125,925,000.

## OPERATION AND MAINTENANCE, ARMY NATIONAL GUARD

For an additional amount for "Operation and Maintenance, Army National Guard", \$450,246,000.

## OPERATION AND MAINTENANCE, AIR NATIONAL GUARD

For an additional amount for "Operation and Maintenance, Air National Guard", \$289,862,000.

## AFGHANISTAN SECURITY FORCES FUND

For the "Afghanistan Security Forces Fund", \$6,562,769,000, to remain available until September 30, 2011: Provided, That such funds shall be available to the Secretary of Defense, notwithstanding any other provision of law, for the purpose of allowing the Commander, Combined Security Transition Command—Afghanistan, or

the Secretary's designee, to provide assistance, with the concurrence of the Secretary of State, to the security forces of Afghanistan, including the provision of equipment, supplies, services, training, facility and infrastructure repair, renovation, and construction, and funding: Provided further, That the authority to provide assistance under this heading is in addition to any other authority to provide assistance to foreign nations: Provided further, That contributions of funds for the purposes provided herein from any person, foreign government, or international organization may be credited to this Fund and used for such purposes: Provided further, That the Secretary of Defense shall notify the congressional defense committees in writing upon the receipt and upon the obligation of any contribution, delineating the sources and amounts of the funds received and the specific use of such contributions: Provided further, That the Secretary of Defense shall, not fewer than 15 days prior to obligating from this appropriation account, notify the congressional defense committees in writing of the details of any such obligation.

## PROCUREMENT

## AIRCRAFT PROCUREMENT, ARMY

For an additional amount for "Aircraft Procurement, Army", \$1,119,319,000, to remain available until September 30, 2012.

## MISSILE PROCUREMENT, ARMY

For an additional amount for "Missile Procurement, Army", \$475,954,000, to remain available until September 30, 2012.

## PROCUREMENT OF WEAPONS AND TRACKED COMBAT VEHICLES, ARMY

For an additional amount for "Procurement of Weapons and Tracked Combat Vehicles, Army", \$875,866,000, to remain available until September 30, 2012.

## PROCUREMENT OF AMMUNITION, ARMY

For an additional amount for "Procurement of Ammunition, Army", \$365,635,000, to remain available until September 30, 2012.

## OTHER PROCUREMENT, ARMY

For an additional amount for "Other Procurement, Army", \$4,874,176,000, to remain available until September 30, 2012.

## AIRCRAFT PROCUREMENT, NAVY

For an additional amount for "Aircraft Procurement, Navy", \$1,342,577,000, to remain available until September 30, 2012.

## WEAPONS PROCUREMENT, NAVY

For an additional amount for "Weapons Procurement, Navy", \$50,700,000, to remain available until September 30, 2012.

## PROCUREMENT OF AMMUNITION, NAVY AND MARINE CORPS

For an additional amount for "Procurement of Ammunition, Navy and Marine Corps", \$681,957,000, to remain available until September 30, 2012.

## OTHER PROCUREMENT, NAVY

For an additional amount for "Other Procurement, Navy", \$260,118,000, to remain available until September 30, 2012.

## PROCUREMENT, MARINE CORPS

For an additional amount for "Procurement, Marine Corps", \$868,197,000, to remain available until September 30, 2012.

## AIRCRAFT PROCUREMENT, AIR FORCE

For an additional amount for "Aircraft Procurement, Air Force", \$736,501,000, to remain available until September 30, 2012.

## MISSILE PROCUREMENT, AIR FORCE

For an additional amount for "Missile Procurement, Air Force", \$36,625,000, to remain available until September 30, 2012.

## PROCUREMENT OF AMMUNITION, AIR FORCE

For an additional amount for "Procurement of Ammunition, Air Force", \$256,819,000, to remain available until September 30, 2012.

## OTHER PROCUREMENT, AIR FORCE

For an additional amount for "Other Procurement, Air Force", \$3,138,021,000, to remain available until September 30, 2012.

## PROCUREMENT, DEFENSE-WIDE

For an additional amount for "Procurement, Defense-Wide", \$480,780,000, to remain available until September 30, 2012.

## MINE RESISTANT AMBUSH PROTECTED VEHICLE FUND

## (INCLUDING TRANSFER OF FUNDS)

For the Mine Resistant Ambush Protected Vehicle Fund, \$6,656,000,000, to remain available until September 30, 2011: Provided, That such funds shall be available to the Secretary of Defense, notwithstanding any other provision of law, to procure, sustain, transport, and field Mine Resistant Ambush Protected vehicles: Provided further, That the Secretary shall transfer such funds only to appropriations for operation and maintenance; procurement; research, development, test and evaluation; and defense working capital funds to accomplish the purpose provided herein: Provided further, That this transfer authority is in addition to any other transfer authority available to the Department of Defense: Provided further, That the Secretary shall, not fewer than 10 days prior to making transfers from this appropriation, notify the congressional defense committees in writing of the details of any such transfer.

## RESEARCH, DEVELOPMENT, TEST AND EVALUATION

## RESEARCH, DEVELOPMENT, TEST AND EVALUATION, ARMY

For an additional amount for "Research, Development, Test and Evaluation, Army", \$57,962,000, to remain available until September 30, 2011.

## RESEARCH, DEVELOPMENT, TEST AND EVALUATION, NAVY

For an additional amount for "Research, Development, Test and Evaluation, Navy", \$84,180,000, to remain available until September 30, 2011.

## RESEARCH, DEVELOPMENT, TEST AND EVALUATION, AIR FORCE

For an additional amount for "Research, Development, Test and Evaluation, Air Force", \$39,286,000, to remain available until September 30, 2011.

## RESEARCH, DEVELOPMENT, TEST AND EVALUATION, DEFENSE-WIDE

For an additional amount for "Research, Development, Test and Evaluation, Defense-Wide", \$112,196,000, to remain available until September 30, 2011.

## REVOLVING AND MANAGEMENT FUNDS

## DEFENSE WORKING CAPITAL FUNDS

For an additional amount for "Defense Working Capital Funds", \$412,215,000.

## OTHER DEPARTMENT OF DEFENSE PROGRAMS

## DEFENSE HEALTH PROGRAM

For an additional amount for "Defense Health Program", \$1,563,675,000, which shall be for operation and maintenance.

## DRUG INTERDICTION AND COUNTER-DRUG ACTIVITIES

For an additional amount for "Drug Interdiction and Counter-Drug Activities", \$353,603,000, to remain available until September 30, 2011.

## JOINT IMPROVISED EXPLOSIVE DEVICE DEFEAT FUND

## (INCLUDING TRANSFER OF FUNDS)

For the "Joint Improvised Explosive Device Defeat Fund", \$2,033,560,000, to remain available until September 30, 2012: Provided, That such funds shall be available to the Secretary of Defense, notwithstanding any other provision of law, for the purpose of allowing the Director of

the Joint Improvised Explosive Device Defeat Organization to investigate, develop and provide equipment, supplies, services, training, facilities, personnel and funds to assist United States forces in the defeat of improvised explosive devices: Provided further, That within 60 days of the enactment of this Act, a plan for the intended management and use of the amounts provided under this heading shall be submitted to the congressional defense committees: Provided further, That the Secretary of Defense shall submit a report not later than 60 days after the end of each fiscal quarter to the congressional defense committees providing assessments of the evolving threats, individual service requirements to counter the threats, the current strategy for predeployment training of members of the Armed Forces on improvised explosive devices, and details on the execution of this Fund: Provided further, That the Secretary of Defense may transfer funds provided herein to appropriations for operation and maintenance; procurement; research, development, test and evaluation; and defense working capital funds to accomplish the purpose provided herein: Provided further, That amounts transferred shall be merged with and available for the same purposes and time period as the appropriations to which transferred: Provided further, That this transfer authority is in addition to any other transfer authority available to the Department of Defense: Provided further, That the Secretary of Defense shall, not fewer than 15 days prior to making transfers from this appropriation, notify the congressional defense committees in writing of the details of any such transfer.

#### OFFICE OF THE INSPECTOR GENERAL

For an additional amount for the "Office of the Inspector General", \$8,876,000.

#### GENERAL PROVISIONS—THIS TITLE

SEC. 9001. Notwithstanding any other provision of law, funds made available in this title are in addition to amounts appropriated or otherwise made available for the Department of Defense for fiscal year 2010.

#### (INCLUDING TRANSFER OF FUNDS)

SEC. 9002. Upon the determination of the Secretary of Defense that such action is necessary in the national interest, the Secretary may, with the approval of the Office of Management and Budget, transfer up to \$4,000,000,000 between the appropriations or funds made available to the Department of Defense in this title: Provided, That the Secretary shall notify the Congress promptly of each transfer made pursuant to the authority in this section: Provided further, That the authority provided in this section is in addition to any other transfer authority available to the Department of Defense and is subject to the same terms and conditions as the authority provided in the Department of Defense Appropriations Act, 2010: Provided further, That the amount in this section is designated as being for overseas deployments and other activities pursuant to sections 401(c)(4) and 423(a)(1) of S. Con. Res. 13 (111th Congress), the concurrent resolution on the budget for fiscal year 2010.

SEC. 9003. Supervision and administration costs associated with a construction project funded with appropriations available for operation and maintenance or the "Afghanistan Security Forces Fund" provided in this Act and executed in direct support of overseas contingency operations in Afghanistan, may be obligated at the time a construction contract is awarded: Provided, That for the purpose of this section, supervision and administration costs include all in-house Government costs.

SEC. 9004. From funds made available in this title, the Secretary of Defense may purchase for use by military and civilian employees of the Department of Defense in Iraq and Afghanistan: (a) passenger motor vehicles up to a limit of \$75,000 per vehicle and (b) heavy and light armored vehicles for the physical security of personnel or for force protection purposes up to

a limit of \$250,000 per vehicle, notwithstanding price or other limitations applicable to the purchase of passenger carrying vehicles.

SEC. 9005. Not to exceed \$1,200,000,000 of the amount appropriated in this title under the heading "Operation and Maintenance, Army" may be used, notwithstanding any other provision of law, to fund the Commander's Emergency Response Program, for the purpose of enabling military commanders in Iraq and Afghanistan to respond to urgent humanitarian relief and reconstruction requirements within their areas of responsibility: Provided, That not later than 15 days after the end of each fiscal year quarter, the Secretary of Defense shall submit to the congressional defense committees a report regarding the source of funds and the allocation and use of funds during that quarter that were made available pursuant to the authority provided in this section or under any other provision of law for the purposes described herein.

SEC. 9006. Funds available to the Department of Defense for operation and maintenance may be used, notwithstanding any other provision of law, to provide supplies, services, transportation, including airlift and sealfit, and other logistical support to coalition forces supporting military and stability operations in Iraq and Afghanistan: Provided, That the Secretary of Defense shall provide quarterly reports to the congressional defense committees regarding support provided under this section.

SEC. 9007. Each amount in this title is designated as being for overseas deployments and other activities pursuant to section 401(c)(4) and 423(a)(1) of S. Con. Res. 13 (111th Congress), the concurrent resolution on the budget for fiscal year 2010.

SEC. 9008. None of the funds appropriated or otherwise made available by this or any other Act shall be obligated or expended by the United States Government for a purpose as follows:

(1) To establish any military installation or base for the purpose of providing for the permanent stationing of United States Armed Forces in Iraq.

(2) To exercise United States control over any oil resource of Iraq.

(3) To establish any military installation or base for the purpose of providing for the permanent stationing of United States Armed Forces in Afghanistan.

SEC. 9009. (a) The Director of the Office of Management and Budget, in consultation with the Secretary of Defense, the Commander of the United States Central Command, the Commander, Multi-National Security Transition Command—Iraq, and the Commander, Combined Security Transition Command—Afghanistan, shall submit to the congressional defense committees not later than 45 days after the end of each fiscal quarter a report on the proposed use of all funds appropriated by this or any prior Act under each of the headings "Iraq Security Forces Fund", "Afghanistan Security Forces Fund", and "Pakistan Counterinsurgency Fund" on a project-by-project basis, for which the obligation of funds is anticipated during the 3-month period from such date, including estimates by the commanders referred to in this section of the costs required to complete each such project.

(b) The report required by this subsection shall include the following:

(1) The use of all funds on a project-by-project basis for which funds appropriated under the headings referred to in subsection (a) were obligated prior to the submission of the report, including estimates by the commanders referred to in subsection (a) of the costs to complete each project.

(2) The use of all funds on a project-by-project basis for which funds were appropriated under the headings referred to in subsection (a) in prior appropriations Acts, or for which funds were made available by transfer, reprogramming, or allocation from other headings in prior

appropriations Acts, including estimates by the commanders referred to in subsection (a) of the costs to complete each project.

(3) An estimated total cost to train and equip the Iraq, Afghanistan, and Pakistan security forces, disaggregated by major program and subelements by force, arrayed by fiscal year.

(c) The Secretary of Defense shall notify the congressional defense committees of any proposed new projects or transfers of funds between sub-activity groups in excess of \$20,000,000 using funds appropriated by this or any prior Act under the headings "Iraq Security Forces Fund", "Afghanistan Security Forces Fund", and "Pakistan Counterinsurgency Fund".

SEC. 9010. (a) None of the funds appropriated or otherwise made available by this Act or any prior Act may be used to transfer, release, or incarcerate any individual who was detained as of October 1, 2009, at Naval Station, Guantanamo Bay, Cuba, to or within the United States or its territories.

(b) In this section, the term "United States" means the several States and the District of Columbia.

SEC. 9011. In addition to amounts made available elsewhere in this title there is hereby appropriated \$329,000,000 for the purchase of fuel to the following accounts in the specified amounts:

"Operation and Maintenance, Army", \$83,552,000;

"Operation and Maintenance, Navy", \$33,889,000;

"Operation and Maintenance, Marine Corps", \$1,619,000;

"Operation and Maintenance, Air Force", \$179,191,000;

"Operation and Maintenance, Army Reserve", \$8,567,000;

"Operation and Maintenance, Navy Reserve", \$3,007,000;

"Operation and Maintenance, Marine Corps Reserve", \$39,000; and

"Operation and Maintenance, Army National Guard", \$19,136,000.

This Act may be cited as the "Department of Defense Appropriations Act, 2010".

Mr. INOUE. Mr. President, today the Senate will begin consideration of the bill making appropriations for the Department of Defense for fiscal year 2010. On behalf of the committee, Vice Chairman COCHRAN and I are recommending funding which totals \$636.3 billion for the discretionary programs under the Defense Subcommittee's jurisdiction.

This amount is \$3.9 billion below the amount requested but is the same as the subcommittee's allocation.

Of this amount \$128.2 billion is funding to sustain our overseas contingency operations, primarily in Iraq and Afghanistan.

I applaud Secretary Gates and the administration for putting forward a budget request which covers the operations both for the normal cost of running our national security programs and for the ongoing wartime needs.

The proposed funding in this measure protects the priorities of our military and civilian leaders; it supports our men and women in uniform, and provides the funding needed for critical acquisition programs.

There has been much discussion this year about proposals by the administration to cut funding for "unnecessary" weapons programs. Vice Chairman COCHRAN and I have reviewed each of the proposals by the administration.

While we are not in complete agreement with the judgment of administration officials, we have generally concurred with the recommendations of our current leaders.

I would like to remind the Members of the Senate that the Defense Department has been wrong on several occasions in recommending program terminations. Luckily the Congress has not always agreed with such proposals.

Let me give three examples, although we could spend all day relaying examples of mistakes by previous administrations.

First, the F-117 Stealth fighter. After producing only one squadron of F-117s the Air Force wanted to terminate the program which some in the Defense Department saw as a threat to the F-15E.

Congress continued to add funding for the program until two squadrons had been completely filled out.

Without the additional aircraft provided by the Congress, the Defense Department would have been woefully short of Stealth aircraft in conducting operations in Desert Storm and Bosnia.

Second, the first Bush administration fought very hard to kill the V-22 which today the Marine Corps considers one of its greatest assets.

Finally, I would remind my colleagues that shortly before Desert Shield-Desert Storm some in the Pentagon wanted to eliminate the Central Command. The view at the time was that we probably wouldn't need to focus much attention on South West Asia. This clearly demonstrates that our ability to predict hot spots and future threats is not perfect.

As we go forward today—killing the F-22, the VH-71 Presidential helicopter, the Combat Search and Rescue helicopter, the Kinetic Energy Interceptor, we do so with the hope that today's military and civilian leaders are better able to predict the future than some of their predecessors were.

The recommendations before the Senate provide our best judgment on the needs of our Nation for national security.

We have not provided funding for the closure of Guantanamo because the administration has yet to produce a credible plan. Instead we have included language which for all practical purposes is the same as was adopted by the Senate earlier this year.

We have adjusted funding for the littoral combat ship because the administration did not request sufficient funding to produce the quantity it requested.

On that subject, I must report that the administration has recently announced that it will only procure two LCS ships this year, which is the number that our committee has funded.

We have reapplied savings cut from unjustified amounts requested in the budget to programs that are better suited for funding.

For example, we have reduced amounts requested for Afghanistan security forces which the administration

has informed the committee cannot be spent in the coming year and transferred that amount to cover a shortfall in the critically needed MRAP program.

While we strongly concur with the administration that increased funding is required to train and equip our Afghan army and police forces, the amount that we recommend is nearly \$1 billion more than was provided for fiscal year 2009.

Moreover, my colleagues should be advised that the Defense Department has not yet spent nearly \$2 billion of the funds that are currently available for this program as we near the end of this fiscal year.

Notwithstanding the critical importance of funding for the Afghan security forces, it simply makes no sense to provide more funding than can be spent for this program when other shortfalls exist.

Along with our staffs we spend countless hours reviewing the programs and funding requests proposed by the administration. As you all know the defense budget is huge and it is extremely complex. There are thousands of acquisition and operations programs. In most cases the specific amounts requested for each of these programs was proposed by the military services more than a year ago.

During the intervening period many changes occur. It is not unusual for a program to be delayed or even terminated while a request is pending before the Congress.

As such, it is up to the subcommittee to make the necessary adjustments based on the latest information to ensure that the Nation is afforded the best use of the funds provided in this measure.

In so doing, we are recommending several program increases in this bill.

For example, we are recommending adding \$1.5 billion to provide for essential equipment for our National Guard and Reserve Forces.

We have also added funding to sustain our near term missile defense programs—like the AEGIS standard missile, THAAD radars, and ground based interceptors for testing.

We are recommending \$1.7 billion to purchase an additional DDG-51 Destroyer to put that restarted program on a more efficient and economical production schedule.

And we have added \$2.5 billion to sustain production of the C-17 program for one additional year. The administration has recently been provided with authority to retire the aging, hard to maintain, and often broken C-5A force.

We expect that in re-examining its airlift fleet the Defense Department will eventually conclude that purchasing additional C-17s and maintaining the strategic asset of a hot airlift production line is the right solution.

On the question of earmarks, as we described earlier this year, the committee has reduced the amount recommended for earmarks by \$300 mil-

lion or 10 percent from last year's recommendation.

In numbers, the committee has reduced the number of earmarks by nearly 200 fewer projects. We recognize that most members of the Senate will receive less than last year. We hope that our colleagues can support this package with its streamlined approach to earmarking.

Collectively, we believe the recommendations in this bill will provide for our Nation's defense and is far superior to the budget request submitted by the administration. Having had the time to review the suggestions of the administration carefully has afforded the subcommittee the opportunity to produce a better bill. I hope that all my colleagues can support the bill which was approved unanimously by the committee.

Mr. COCHRAN. Mr. President, I thank Chairman INOUE for his leadership and bipartisanship in putting together this legislation and moving it to the floor for consideration.

Two weeks ago, the Appropriations Committee unanimously approved this bill which provides over \$636 billion for Department of Defense operations for fiscal year 2010, including \$128 billion for overseas contingency operations. In compliance with committee allocation, this bill is \$3.9 billion below the President's budget request.

Given the allocation, the committee was forced to make tough decisions. This bill reflects a balanced recommendation which fully funds key readiness programs as well as providing for pay, housing allowance, medical care and family support for our men and women in uniform and their families.

Included in this bill is funding for requirements identified by the administration after the budget request was submitted. Funding is included to address the administration's budget amendment to grow the Army by an additional 22,200 personnel. Also included is an additional \$1.2 billion for 1400 mine resistant ambush protected vehicles that were recently identified as new requirements for our men and women serving in Afghanistan.

This bill also includes \$1.5 billion in the National Guard and Reserve Equipment account to help the Guard and Reserve components procure needed equipment. The Guard and Reserve continue to answer the call to duty. With over 140,000 Guard and Reserve personnel activated, we need to ensure they have the resources necessary to be ready to perform their Federal and State missions. This additional funding will help ensure the Guard and Reserve have the equipment they need.

I urge Senators to support the passage of this bill so we can make sure service members and their civilian colleagues in the Department of Defense have the funding they need to carry out their responsibilities. The men and women who wear our Nation's uniform make great sacrifices and one way to

show our support is to provide funding in a timely manner. My hope is that we finish floor consideration of this bill this week. It would be good for all concerned if we could in a timely fashion before the end of this fiscal year.

#### MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to a period of morning business.

The Senator from Georgia.

The PRESIDING OFFICER. The Senator from Georgia is recognized.

#### DEPARTMENT OF JUSTICE INVESTIGATION

Mr. CHAMBLISS. Mr. President, I rise today to speak in opposition to Attorney General Holder's decision to re-examine the judgment by career prosecutors at the Department of Justice and initiate a preliminary review to determine whether criminal charges should be filed against CIA officers who conducted interrogations against hardened al-Qaida terrorists.

At the outset, let me remind everyone that President Obama promised the American people he would look forward rather than backward and would not seek a criminal investigation for individuals involved in the CIA's interrogation and detention program. Notwithstanding this promise, he has allowed the Attorney General, a member of his Cabinet who answers to him, to rehash old ground despite the fact that career prosecutors already have examined the same information and declined to prosecute the same individuals for the same actions.

By allowing this decision to stand, President Obama is failing to exercise his duty as Chief Executive and enforcer of the law. Given that there are no new facts to justify this action by the Attorney General, the President should demand that the legal conclusions previously reached by career prosecutors be upheld.

Just last week, seven former CIA Directors—encompassing all living former CIA Directors from both political parties except the two presently serving in the Obama administration, current Director Panetta and Secretary of Defense Gates—wrote in a letter to President Obama that the decision to reexamine these cases “creates an atmosphere of continuous jeopardy for those whose cases the Department of Justice had previously declined to prosecute.”

No facts have changed since then, no new facts have arisen, and in light of the previous refusal of the Department of Justice to prosecute all but one CIA employee, the CIA has already taken administrative action against some of these individuals. Where is the justice for these government employees who have been on the front lines in the war on terror since the 9/11 attacks and who acted under the legal guidance given to them if they are to face potential pun-

ishment more than once for their actions?

What is the message we are sending to our intelligence community? Reopening these cases is exactly the type of action which creates risk-averse intelligence agencies and officers. If an intelligence officer involved in a clandestine operation today worries that he may be prosecuted for it tomorrow, he is not going to think twice about conducting the operation. He simply will not do it. Worse yet, if an intelligence officer involved in a clandestine operation today worries that he may be prosecuted for it tomorrow because of random policy changes, it will evoke an even greater subjective risk-adverse environment. Creating such an environment where intelligence activities today are held hostage to the political decisions of tomorrow is a recipe for failure for our intelligence collection efforts.

As a member of the Senate Select Committee on Intelligence, I understand the important role that intelligence plays in our military, law enforcement, and intelligence operations. I see firsthand the bravery and professionalism exhibited by our intelligence community cadre. Partisanship plays no role in their daily operations. They are guided not by which political party may obtain their vote on a particular day in November but by an overwhelming sense of duty to their country. They understand they do not make policy. Yet they are out there risking their lives to gather the intelligence necessary for policymakers to make an informed decision.

Similarly, partisanship should play no role in the decisions of the administration or Congress when it comes to intelligence gathering. I do not want our intelligence community professionals to have to think twice about whether to gather certain information that will inform me of foreign policy developments because they fear potential prosecution at a later date for doing so. These men and women need to know they have the freedom to do their jobs within the guidance that is given to them at the time, even though that guidance or policy may change down the road. They need to know the country they are serving has their back. Sadly, that is not the message we are sending. Never before has a change in policy brought the threat of potential prosecution for past sanctioned actions.

Some may ask why the Attorney General's decision is so harmful to our national security. The answer is simple. Without calculated risk taking on the part of our intelligence community, we will lose the fight against not only our state adversaries but against terrorists as well. This is not a tradeoff I am willing to take. It is not a tradeoff the President should be willing to make either, particularly as we continue the fight in Afghanistan.

We need to look no further than the events of the past week, the arrests on

American soil of three individuals with admitted ties to al-Qaida who may have been planning attacks against the U.S. homeland, to understand that the threats to our country are real and that this tradeoff which the administration has sanctioned is a lot closer to hitting home.

Finally, I would point out that the same report—the CIA inspector general's report entitled “Counterterrorism Detention and Interrogation Activities (September 2001–October 2003)” —that Attorney General Holder claims was his reason for reopening this investigation was the same report that prompted the CIA to self-report to the Department of Justice in the first place.

Long before the IG even started his review, the CIA informed the Department of Justice that they had recommended an IG investigation related to the interrogation program. Once the report was completed, the Department of Justice received it and carefully reviewed the facts and circumstances described within it. Only after doing so did the career attorneys decline to prosecute. Unfortunately, press reports from this past weekend indicate that the Attorney General never even bothered to read the declination memos prepared by these career public servants.

In recent months, the administration has declassified and released to the public this IG report, as well as the legal guidance from the Department of Justice. The record is there for the American people to review for themselves. I have reviewed all of this information, and I am confident that anyone else who does so will reach the same conclusion I have; namely, that reopening an investigation is not merited.

Further, it is worth noting that the IG report found that:

The Agency's detention and interrogation of terrorists has provided intelligence that has enabled identification and apprehension of other terrorists and warned of terrorist plots planned for the United States and around the world.

Where deviations from the approved procedures and guidance occurred, it was an anomaly and was either prosecuted or administratively punished by the CIA leadership.

The issues at the heart of the Attorney General's decision have been examined thoroughly, and it is time for them to be laid to rest. President Obama and the Attorney General should put an end to their unjustified second-guessing of career prosecutors. I cannot imagine they would be willing to expose their own policy decisions and legal determinations to future politically motivated prosecutions. Yet by doing so with their actions against the CIA employees, they are setting a dangerous precedent which I believe will have a lasting, chilling effect on our intelligence community and our national security.

With that, Mr. President, I yield the floor.



The PRESIDING OFFICER. The Senator from Delaware.

Mr. KAUFMAN. Mr. President, I ask unanimous consent to speak in morning business for up to 10 minutes.

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

#### CELEBRATING THE 2009 SERVICE TO AMERICA MEDAL WINNERS

Mr. KAUFMAN. Mr. President, I rise once again to honor America's great Federal employees.

When I began my great Federal employees initiative in May, I did so by sharing the stories of some outstanding public servants who in past years had won Service to America Medals.

Last night, at its eighth annual awards gala, the Partnership for Public Service announced its 2009 Service to America Medal winners. These nine exemplary Federal employees represent a number of agencies and hail from diverse backgrounds. Together, they form a snapshot of the finest civil service in history.

When I spoke in May about what makes our Federal workforce so excellent, I said there are several qualities our civil servants embody. First and foremost, they demonstrate great citizenship by choosing careers in the public sector. Second, they are industrious and hardworking in the face of often difficult and challenging tasks.

Our Federal employees take risks both to their safety and to their careers. They persevere even when faced with setbacks or with the knowledge that the effects of their work may not be felt for years to come. Our public servants exhibit great intellect and bring to their jobs many advanced skills and specialized knowledge. I am glad—very glad—there are awards such as the Service to America Medals to recognize the unsung heroes who keep America moving ever forward. This is what I have tried to do each week by speaking about our great public servants.

This year's Service to America medalists can well be described by the five attributes I just listed.

Dr. Janet Kemp, who won this year's Federal Employee of the Year Medal, exemplified the value of outstanding citizenship when she organized a national suicide prevention hotline for veterans. As national director for the VA's Suicide Prevention Program, Janet oversaw the creation of the hotline to help combat veteran suicide, which has increased significantly in recent years. Since 2005, when she was asked to spearhead this program, Janet's initiative has rescued over 3,000 veterans and has assisted them in finding help.

An important aspect of citizenship is a commitment to protecting one's community from harm. Ben Fisherow was awarded the 2009 Justice and Law Enforcement Medal for his work to prevent air pollution. As an experienced litigator with the Department of Jus-

tice's Environment and Natural Resources Division, Ben has spent over 20 years enforcing key provisions of the Clean Air Act and taking legal action against utilities that violate anti-pollution mandates. In one case alone, Ben secured a settlement that prevented the release of over 800,000 tons of air pollutants annually.

Our federal employees are hard working, and this year's Citizens Services Medal winner proves it. Michael German, of the Department of Housing and Urban Development, has been working tirelessly to combat homelessness in America. The Interagency Council on Homelessness, which he leads, coordinates with over 850 State and local officials nationwide on efforts to help the homeless obtain medical care and permanent housing. Their work has led to a 30-percent reduction in the chronically homeless between 2005 and 2007.

Another example of our civil servants' industriousness can be found in Allan Comp. Allan won the 2009 Environment Medal for his work at the Department of the Interior's Office of Surface Mining. He created the Appalachian Coal Country Watershed Team, a partnership between his office and VISTA volunteers who help local citizens and community groups organize clean-up projects and monitor water quality. His program was so successful that it was recently expanded to the American West. Today, joint Office of Surface-Mining and VISTA teams are at work protecting and empowering local communities in Colorado, New Mexico, and Montana.

Clare Rowley is an economic analyst for the FDIC. She won the Call to Service Medal for helping to implement the FDIC's mortgage modification program, which helped thousands of families stay in their homes after the collapse of subprime mortgages. In February, Clare, who is only 25 years old, found herself sitting in a high-level meeting with regulators, bankers, and Obama administration officials on the foreclosure crisis. Despite feeling somewhat intimidated because of her age and junior position, Clare spoke up and offered important ideas that eventually made their way into the Treasury Department's mortgage crisis recovery plan. Now, Clare is one of those instrumental in carrying out the plan.

A risk-taker, who won this year's National Security and International Affairs Medal, serves as the director of the USAID's Office of Economic Growth in Pakistan. In July, I spoke about a USAID employee who was gunned down by extremists while posted in the Sudan. For Amy Meyer, who performs similar work in Pakistan, the danger is very real. Nonetheless, she arrived in the country in 2006 and began working with local women to create dairy cooperatives. Starting with just a staff of two and little funding, Amy now oversees a \$200 million budget and several successful economic empowerment programs. She even teaches yoga on Pakistani television

and has spent much of her personal time dispensing advice to local women in their homes.

The winner of the 2009 Career Achievement Medal knows the meaning of perseverance. Dr. Thomas Waldmann has been a medical researcher at the National Institutes of Health for over 50 years. Currently, Tom is chief of the NIH National Cancer Institute's Metabolism Branch, and the focus of his career has been researching disorders in which the body attacks its own cells. His work has led to treatments to once-fatal varieties of lymphoma, leukemia, and multiple sclerosis. Tom also co-discovered a type of molecule that may lead to advances in the fight against AIDS and cancer. But his successes did not happen overnight. His achievements were the work of a lifetime, and the full impact of Tom's discoveries will not be known for years.

Similarly, Dr. Patricia Guerri has demonstrated great resolve while researching an elusive vaccine. Now serving as chief of the Naval Medical Research Center's Molecular Biology and Biochemistry Branch, she has spent nearly 30 years studying a microbe that causes food poisoning. Researchers discovered that the most common microbe involved in food-borne illnesses is *Campylobacter*. In the mid-1980s, after several years of unsuccessfully attempting to find a vaccine, many microbiologists turned their attention elsewhere. Patricia, however, never gave up. Today, she and her team of researchers are nearing their goal, and their vaccine is now in the testing phase. She persevered, and our troops stationed abroad as well as tens of millions in the developing world will likely soon benefit from a vaccine.

This year's Homeland Security Medal was shared by a pair of CIA employees who showed great intellect in solving a critical problem. In 2005, the Office of the Director of National Intelligence gave Sean Dennehy and Don Burke the task of improving information-sharing across the intelligence community. Lack of communication between the intelligence agencies had been a serious impediment to preventing the September 11 attacks. To fix this, Sean and Don created an online system called "Intellipedia," modeled after the popular Wikipedia Web site. Intellipedia enables analysts from different agencies to contribute information to subject pages and open cases. Today, Intellipedia has grown to nearly a million pages, and it has helped prevent threats to the Beijing Olympics, analyze IED patterns in Iraq, and study the 2008 Mumbai terror attacks.

All of these outstanding public servants display great humility. Even with such accomplishments, modesty is their common response.

I want to congratulate the Partnership for Public Service on their work to award the Service to America Medals. The winners were selected by a blue ribbon panel of leaders from both

the public and private sectors, of which our colleague from Mississippi, Senator THAD COCHRAN, is a member.

I hope the rest of my colleagues will join me in congratulating all of this year's Service to America winners on receiving their medals. We thank them, and all Federal employees, for their service to our Nation.

Mr. President, I yield the floor.

#### FURTHER CHANGES TO S. CON. RES. 13

Mr. CONRAD. Mr. President, I wish to make a series of adjustments to the allocation of budget authority and outlays to the Senate Appropriations Committee and the section 401(b) Senate discretionary spending limits. I am making these adjustments for the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 2010, and for the Department of Defense Appropriations Act, 2010.

First, section 401(c)(2)(A) of the 2010 Budget Resolution permits the chairman to adjust the section 401(b) discretionary spending limits, allocations pursuant to section 302(a) of the Congressional Budget Act of 1974, and aggregates for legislation making appropriations for fiscal year 2010 that both appropriates \$273 million and provides an additional appropriation of up to \$485 million to the Social Security Administration for continuing disability reviews and Supplemental Security Income redeterminations.

Second, section 401(c)(2)(C) of the 2010 Budget Resolution permits the chairman to adjust the section 401(b) discretionary spending limits, allocations pursuant to section 302(a) of the Congressional Budget Act of 1974, and aggregates for legislation making appropriations for fiscal year 2010 that appropriates up to \$311 million to the Health Care Fraud and Abuse Control Program at the Department of Health and Human Services.

Third, section 401(c)(2)(D) of the 2010 Budget Resolution permits the chairman to adjust the section 401(b) discretionary spending limits, allocations pursuant to section 302(a) of the Congressional Budget Act of 1974, and aggregates for legislation making appropriations for fiscal year 2010 that both appropriates \$10 million and provides an additional appropriation of up to \$50 million for in-person reemployment and eligibility assessments and unemployment insurance improper payment reviews.

Fourth, section 401(c)(3) of S. Con. Res. 13, the 2010 Budget Resolution, permits the chairman of the Senate Budget Committee to adjust the section 401(b) discretionary spending limits, allocations pursuant to section 302(a) of the Congressional Budget Act of 1974, and aggregates for legislation making appropriations for fiscal year 2010 that appropriates \$3.2 billion in funding for the Low-Income Home Energy Assistance Program and provides an additional appropriation of up to \$1.9 billion for that program.

On August 4, 2009, the Senate Appropriations Committee reported H.R. 3293, the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 2010, with an amendment in the nature of a substitute. The reported bill contains \$2.746 billion in funding that satisfies the conditions of sections 401(c)(2)(A), 401(c)(2)(C), 401(c)(2)(D), and 401(c)(3). The Congressional Budget Office estimates that the \$2.746 billion in budget authority will result in \$2.197 billion in new outlays in 2010. As a result, I am revising both the discretionary spending limits and the allocation to the Senate Committee on Appropriations for discretionary budget authority and outlays by those amounts in 2010.

Finally, section 401(c)(4) of S. Con. Res. 13, the 2010 Budget Resolution, permits the chairman of the Senate Budget Committee to adjust the section 401(b) discretionary spending lim-

its, allocations pursuant to section 302(a) of the Congressional Budget Act of 1974, and aggregates for legislation making appropriations for fiscal years 2009 and 2010 for overseas deployments and other activities by the amounts provided in such legislation for those purposes and so designated pursuant to section 401(c)(4). The adjustment is limited to the total amount of budget authority specified in section 104(21) of S. Con. Res. 13. For 2009, that limitation is \$90.745 billion, and for 2010, it is \$130 billion.

On September 10, 2009, the Senate Appropriations Committee reported H.R. 3326, the Department of Defense Appropriations Act, 2010, with an amendment in the nature of a substitute. The reported bill contains \$128.221 billion in funding that has been designated for overseas deployments and other activities pursuant to section 401(c)(4). The Congressional Budget Office estimates that the \$128.221 billion in budget authority will result in \$66.653 billion in new outlays in 2010. As a result, I am revising both the discretionary spending limits and the allocation to the Senate Committee on Appropriations for discretionary budget authority and outlays by those amounts in 2010. When combined with previous adjustments made pursuant to section 401(c)(4), \$128.6 billion has been designated so far for overseas deployments and other activities for 2010.

When combining the effects of the adjustments made for both bills, I am revising today both the discretionary spending limits and the allocation to the Senate Committee on Appropriations by a total of \$130,967 million for budget authority and \$68,850 million for outlays.

I ask unanimous consent that the following revisions to S. Con. Res. 13 be printed in the RECORD.

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

CONCURRENT RESOLUTION ON THE BUDGET FOR FISCAL YEAR 2010—S. CON. RES. 13; FURTHER REVISIONS TO THE CONFERENCE AGREEMENT PURSUANT TO SECTIONS 401(c)(2), 401(c)(3), AND 401(c)(4) TO THE ALLOCATION OF BUDGET AUTHORITY AND OUTLAYS TO THE SENATE APPROPRIATIONS COMMITTEE AND THE SECTION 401(b) SENATE DISCRETIONARY SPENDING LIMITS

[In millions of dollars]

	Current allocation/limit	Adjustment	Revised allocation/limit
FY 2009 Discretionary Budget Authority .....	1,482,201	0	1,482,201
FY 2009 Discretionary Outlays .....	1,247,872	0	1,247,872
FY 2010 Discretionary Budget Authority .....	1,087,285	130,967	1,218,252
FY 2010 Discretionary Outlays .....	1,307,200	68,850	1,376,050

#### NATIONAL PROSTATE CANCER AWARENESS MONTH

Mr. JOHNSON. Mr. President, today I wish to recognize September as National Prostate Cancer Awareness Month. Prostate cancer is the most diagnosed nonskin cancer in the United States and the most commonly diagnosed cancer in men. It is estimated that 200,000 men will be diagnosed with prostate cancer and 30,000 men will die from the disease this year. Our commitment to making awareness and

early detection of this disease a national priority must continue.

A simple blood test, the prostate-specific antigen, or PSA, can detect the risk of prostate cancer. Health experts recommend that doctors offer men yearly screening beginning at age 50. However, men with high-risk factors should consider starting yearly testing earlier. We must remember that through screening and early detection, we truly can save lives.

I am proud to add my voice to those who are working to fight prostate can-

cer, and I take this opportunity to recognize the families, professionals, and advocates who work day after day to be a powerful voice for prostate cancer patients. I commend them on their tireless efforts to raise awareness of the risks, to promote early detection and treatment, and to further our efforts to understand and eliminate this disease. We must all join these efforts to pursue increased funding for biomedical research and public health awareness

campaigns, as well as expanded diagnosis and treatment options.

I urge all citizens to support the search for the early detection and cure of prostate cancer and support those individuals and families who face this devastating disease.

#### RECOGNIZING CHARACTER COUNTS! WEEK

Mr. JOHNSON. Mr. President, today I wish to pay tribute to the national week of CHARACTER COUNTS!, the most widely used character building framework in the United States.

In 1993, after a conference in Aspen, Colorado, CHARACTER COUNTS! was formed to educate students about universal ethical standards. With six vital pillars—trustworthiness, respect, responsibility, fairness, caring, and citizenship—CHARACTER COUNTS! teaches students essential values for developing into productive citizens. This important program supplements a regular school's curriculum to educate our future generations about important decisionmaking skills. The program has been credited for increased school attendance, as well as a reduction in misbehavior.

Character education is vital to our youth, and it teaches important lessons we would all do well to embrace. I commend the CHARACTER COUNTS! organization, its instructors, and its participants for being a part of this admirable initiative.

#### HONORING OUR ARMED FORCES

##### SPECIALIST JUSTIN PELLERIN

Mr. GREGG. Mr. President, I rise today to pay tribute to a special person, U.S. Army SPC Justin Pellerin of Concord, NH, for his service and supreme sacrifice for our Nation.

Tragically, on August 20, 2009, this courageous young soldier, only 21 years of age, gave his last full measure of devotion when an explosive device detonated near his vehicle in Wardak Province, Afghanistan. At the time of the incident, Specialist Pellerin was serving as an infantryman assigned to the 2nd Battalion, 87th Infantry Regiment, 3rd Brigade Combat Team, 10th Mountain Division based at Fort Drum, NY.

Justin joined the U.S. Army in June 2007 after graduating from Concord High School and deployed in January in support of Operation Enduring Freedom. This decorated patriot is the recipient of the National Defense Service Medal, Afghanistan Campaign Medal, Global War on Terrorism Service Medal, Army Service Ribbon, NATO Service Medal, and most recently, the Purple Heart and Bronze Star.

Heroes from the State of New Hampshire have served our Nation with honor and distinction from Bunker Hill to Afghanistan. Undoubtedly, Justin has advanced that fine tradition. Daniel Webster said: "God grants liberty only to those who love it, and are al-

ways ready to guard and defend it." Justin chose to serve our Nation, guard our precious liberties, and answer the call of freedom. Our debt of gratitude will never be fully repaid to Justin or his loved ones.

The sudden death of a young person is especially difficult for family and friends. In November 1864, President Abraham Lincoln was informed by the War Department of a mother who had lost five sons in the Civil War. He wrote the mother: "I feel how weak and fruitless must be any word of mine which should attempt to beguile you from the grief of a loss so overwhelming. But I cannot refrain from tendering you the consolation that may be found in the thanks of the Republic they died to save."

My heartfelt sympathy, condolences, and prayers go out to Justin's wife Chelsey; his parents Dale and Melissa, and family and friends. The death of Justin, on a battlefield far from New Hampshire, is a true loss for our State and Nation, and a grievous pain for those who knew him best and loved him most. Although he will be sorely missed by all, it is my hope that his family and friends may find some comfort in knowing that Justin's devotion, sense of duty, and selfless dedication have made the safety and liberty of each and every American more secure. May God bless SPC Justin Pellerin.

#### ADDITIONAL STATEMENTS

##### TRIBUTE TO OUTSTANDING HAWAII EDUCATORS

• Mr. AKAKA. Mr. President, I wish to congratulate two outstanding educators from my State, elementary school teachers Liane Tanigawa of Pearl Ridge Elementary School and Seanyelle Yagi of Kanewai Elementary School, for receiving the Presidential Award for Excellence in Mathematics and Science Teaching, PAEMST.

The PAEMST, administered by the National Science Foundation on behalf of the White House Office of Science and Technology Policy, is the highest recognition that a mathematics or science teacher may receive. Since the program's inception in 1983, more than 3,900 educators nationwide have been recognized for their contribution to mathematics and science education. As a former educator and principal, I know firsthand of the countless hours that go into creating curricula, and it makes me proud to see outstanding teachers receive recognition for their hard work.

The dedication of Liane and Seanyelle to their field and to the children of Hawaii is undeniable. I congratulate them both for receiving this outstanding recognition, and I wish them the very best in their future endeavors.

##### TRIBUTE TO STEWART AND MARLENE GREENEBAUM

• Mr. CARDIN. Mr. President, today I wish to pay special tribute to the outstanding achievements of Stewart and Marlene Greenebaum. Stewart and Marlene are lifelong residents of Baltimore and good friends of mine who have shown a deep personal commitment to Baltimore, to Maryland, and to improving our community and Nation through their commitment of time and resources.

The Greenebaums have helped to establish our community as a leader in health care. Through their efforts, they established one of our Nation's premier cancer centers. The Marlene and Stewart Greenebaum Cancer Center is known for translating its innovative research into better treatments. Stewart is a past chairman of the board of the University of Maryland Medical System, home to the Marlene and Stewart Greenebaum Cancer Center. The Greenebaums also founded the Children's House at Johns Hopkins Hospital, a facility dedicated to helping the families of children who are fighting life-threatening illness.

The Greenebaums' commitment to improving health care outcomes is known nationwide. Stewart serves as the founding chair for the American Cancer Society's Cancer Resource Network, a program that provides resource navigators to major cancer centers. He is chairman emeritus and member of the Board of Advisors for the Baltimore-based Institute of Human Virology, which focuses on HIV/AIDS research, care, and treatment, and he serves on the board of Profectus Biosciences Inc. and Welldoc, a company whose products help in the management of diabetes. Stewart also is one of the five U.S. directors of the Hadassah Hospital in Jerusalem.

Marlene Greenebaum is known in our community for her commitment to Judaism. She has served as president of Temple Oheb Shalom Sisterhood and is past president of Miriam Lodge, K.S.B. She was vice president of fundraising for Hadassah Hospital in Jerusalem and is currently on the Greenebaum Cancer Center board.

Marlene and Stewart are also committed to education. Stewart helped to found and fund a program that sends African-American students to Israel. He is the founding president of Shoshana S. Cardin Jewish High School. On October 21, the Shoshana S. Cardin School will honor Marlene and Stewart Greenebaum for all they have contributed. I ask my colleagues to join me in applauding the many accomplishments of Stewart and Marlene Greenebaum and for their undying commitment and dedication to helping others.

##### TRIBUTE TO BRAYDIN AND TORIN SONES

• Mr. CARPER. Mr. President, I wish today to recognize the noble efforts of

both the Sones family and the Dover Air Force Base community for their support of Karina Sones in her battle against cancer. Karina was diagnosed with acute lymphocytic leukemia when she was 4 years old. Although the doctors thought they had beaten the cancer after a round of chemotherapy in 2004, she unfortunately relapsed in 2006. I wish to commemorate the sterling efforts of her two younger brothers, her parents, and the men and women of Dover Air Force Base for encouraging and supporting Karina through this difficult time. Thankfully, she is now on the path to recovery.

When Karina relapsed, her parents were informed that a bone marrow transplant was her only option. Despite there being approximately 20 million bone marrow donations on record, there were no matches on the National Marrow Donor database for Karina. Her parents, however, remained optimistic that a solution would be found. In what can only be described as good fortune, Karina was lucky enough to be the recipient of an anonymous donation of umbilical cord stem cells that allowed her to have a second chance at life. Karina bravely endured radiation and 50 days of isolation before she could receive the transplant. Afterwards, the whole family had to work together to prevent her from getting sick. Although, Karina still suffers from graft-vs-host disease which has caused her skin to be inflamed, she remains brave and upbeat. She insists that she would like to go to Disneyland with her mother and be Cinderella.

Her two younger brothers, Braydin, age 10, and Torin, age 7, admirably refuse to be helpless as their sister battles leukemia. Karina's struggle inspired them to want to help other kids with cancer and to further support research, so they began collecting golf balls that had landed in their backyard and selling them on to golfers. Their goal was to collect \$500, and they have already exceeded that amount. They will donate all the money to the Alfred I. duPont Hospital for Children where Karina still receives treatment.

This story is a true example of the Air Force, the Dover community, and the Sones family all coming together to unite against a common adversary. The city of Dover and the Dover Air Force Base are known for their tight-knit relationship which is certainly demonstrated by the Dover community having won the Abeliene trophy twice—the trophy designated for the base with the most supportive community—and this story only provides further evidence for that statement.

I believe that it is a mark of Karina's character and impressive bravery that she has persevered through all of her medical setbacks. To this day, Karina refuses to rest and is working on spreading awareness about becoming a bone marrow donor because she wants other children to have the same chance at life that she had. Most children, after spending so much time in hos-

pitals, would wish to stay away from them, but Karina is not most children. She wants to become a cardiologist when she grows up.

Karina's brave story is one that we do not hear often. I wish to honor not just her courage but also the bravery and perseverance of her brothers and her parents and to wish them continued blessings in the future. I also want to emphasize the good work and support that Dover Air Force Base has offered the Sones family during such a trying and difficult time.●

#### TRIBUTE TO THE WHIFFENPOOFS

● Mr. DODD. Mr. President, 100 years ago this winter, history was made at the old Mory's Bar on Temple Street in New Haven, CT, as Denton Fowler, James Merriam Howard, Carl Lohmann, Meade Minnigerode, and George Pomeroy formed an a cappella singing group known as the Whiffenpoofs of Yale University.

The Whiffenpoofs, as every Yalie knows, are unsurpassed in talent and tradition. They are now the oldest continuously functioning collegiate a cappella singing group in the United States.

Their history is rich and vibrant. During World War II, the brave men of the U.S. Army Air Force's Black Sheep Squadron adopted "The Whiffenpoof Song" as their theme song. And over the course of the 20th century, that famous tune has been recorded by such legendary artists as Bing Crosby, Ella Fitzgerald, Louis Armstrong, and Elvis Presley.

The Whiffenpoofs have inspired a cappella singing groups at colleges and secondary schools across America—in fact, there are now more than 1,200 such groups entertaining audiences.

But their influence is not limited by our borders. Each year, the Whiffenpoofs embark on an international tour, visiting foreign capitals and tiny villages, great palaces and humble churches, and U.S. Embassies around the world, spreading song and good will on behalf of Yale University and America's college students.

Next month, Whiffenpoofs alumni from around the world will descend upon Yale to convene with the current group in celebration of the Whiffenpoofs' centennial. It is sure to be an occasion filled with good cheer, great music, and tremendous fellowship—the trademarks of this beloved Connecticut institution.

Mr. President, I congratulate the Whiffenpoofs of Yale University on their centennial. I thank them for their many contributions to our Nation, and I look forward to another century of song and friendship.●

#### TRIBUTE TO STEVE AND SHELLEY BRUNE

● Mr. JOHANNIS. Mr. President, Steve and Shelley Brune are extraordinary Nebraskans who made a commitment

to open their hearts and home to a foster child, which led to a remarkable story of love and compassion.

In September 1999, they welcomed Jonathon into their home as a foster child. In February 2001, Jonathon's biological brother, James, was also removed from the home. The Brune family recognized the importance of keeping siblings together and agreed to unite the brothers by welcoming James into their home as a second foster child.

The Brunes worked closely with the Nebraska Department of Health and Human Services, HHS, in efforts to reunite Jonathon and James with their biological parents. When HHS determined that reunification was not in the boys' best interest, Steve and Shelley made a permanent commitment to the boys by adopting them; Jonathon on July 19, 2001 and James on January 17, 2002.

In October 2007, the biological sister of James and Jonathon, Mary Ann, was removed from the home. HHS contacted the Brune family to discuss the possibility of once again becoming foster parents. The Brunes recognized that this child needed a loving home and would benefit from being with her brothers. For a third time, they admirably opened their hearts and home, welcoming Mary Ann on July 15, 2008.

In April 2009, another sibling, Madeline Grace, was born and was also removed from the home. The Brune family showed tremendous compassion and devotion to the children of this family by agreeing to welcome Madeline Grace into their family. Steve and Shelley are currently in the process of adopting both Mary Ann and Madeline Grace.

It is with heartfelt admiration that I nominate Steve and Shelley Brune as Adoption Angels. Their capacity to love and care for these four children is an inspiration and worthy example for others to follow. My hope is that their story inspires others to consider opening their hearts and homes to the many children awaiting adoption, in need of loving families.

May God bless Shelley, Steve, Jonathon, James, Mary Ann, Madeline Grace, and all adoptive parents who give children the gift of a loving family.●

#### RECOGNIZING THE 100TH ANNIVERSARY OF THE BRICKLAYERS AND ALLIED CRAFT WORKERS

● Mr. JOHNSON. Mr. President, I wish to recognize the 100th anniversary of the Bricklayers and Allied Craft Workers of the South Dakota Administrative District Council Local 03 of Aberdeen, SD. October 2009 marks the month and year of this landmark anniversary. BAC is highly respected as one of the oldest highly skilled trade unions in the United States and Canada.

For the past 100 years, Local 03 has played a major role in shaping the

workforce in Aberdeen. Working with their signatory contractors, Local 03 negotiated fair wages, safe working conditions, a respectable retirement, and solidarity among the membership. Although Local 03 has never had a large membership, they have always believed that working together will accomplish more than working alone. Today, 16 members keep the hopes and dreams of their founding members alive and well. Special recognition is given to Howard Jones as he receives his 50-year gold card and Don Feiock as he receives his 25-year membership pin.

I commend Local 03 Bricklayers and Allied Craft members for continuing the proud tradition of craft excellence and union solidarity started by their founders a century ago.●

#### RECOGNIZING HARBOR TECHNOLOGIES

● Ms. SNOWE. Mr. President, as we emerge from this lengthy recession, companies small and large are seeking to grow their businesses and become increasingly more innovative. Many are seeking to be leaders in some of the world's foremost emerging technologies. I wish to recognize a small firm in my home State of Maine that has been at the cutting edge of the composites industry since its founding 6 years ago, positioning itself well for continued future success.

Harbor Technologies, located in Brunswick, was founded during the summer of 2003 to fill the demand for environmentally friendly composite building products used for marine infrastructure. In particular, Harbor Technologies' composites are utilized in the manufacturing of docks, piers, marinas, sea walls, pilings, and other similar structures. Additionally, Harbor Technologies is using its composites to build bridge beams as an alternative to heavy steel. As we seek to improve and upgrade our Nation's roads and bridges, Harbor Technologies' distinctive fiberglass bridge beams should be at the forefront.

What makes composites so unique is its durability. While steel rusts and wood is subject to rotting, composites last longer and are easily maintained, leading to huge cost savings for both the supplier and the purchaser. Composites are also lightweight and compact; a large composite beam weighs 4,000 pounds, while similar concrete beams weigh 63,000 pounds. This allows Harbor Technologies to save on shipping costs, and reduce its carbon footprint in the process.

Just last year, Harbor Technologies tripled the size of its manufacturing space to 30,000 square feet, and added state-of-the-art pultrusion machinery to produce pilings of any length. This has allowed the company to take on considerable new work and hire additional employees, even during these difficult economic times.

Significantly, Harbor Technologies has played a critical role in developing

an advanced composites cluster in the Maine midcoast region. Additionally, Harbor Technologies' president Martin Grimnes, is the founder of the Maine Composites Alliance, an organization that seeks to promote the State's leadership in several composites industries, including marine, aerospace, and automotive. Clusters, which are geographic concentrations of companies and organizations that collaborate to create specific products, represent proven tools in our Nation's innovation agenda, and Mr. Grimnes is to be commended for his steadfast determination to advance their effectiveness and utilization throughout Maine.

As a national leader in the composites industry, Harbor Technologies has made a name for itself as a reliable and trustworthy company that produces innovative, cost-effective, and environmentally sound products. And it is small businesses like Harbor Technologies that represent the brightest lights for our economy's future. I congratulate president Martin Grimnes and everyone at Harbor Technologies on their outstanding work and wish them continued success.●

#### MESSAGES FROM THE PRESIDENT

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

#### EXECUTIVE MESSAGES REFERRED

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

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

#### MESSAGES FROM THE HOUSE

##### ENROLLED BILL SIGNED

At 9:33 a.m., a message from the House of Representatives, delivered by Mrs. Cole, one of its reading clerks, announced that the Speaker has signed the following enrolled bill:

S. 1677. An act to reauthorize the Defense Production Act of 1950, and for other purposes.

The enrolled bill was subsequently signed by the President pro tempore (Mr. BYRD).

At 10:25 a.m., a message from the House of Representatives, delivered by Mr. Hanrahan, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 324. An act to establish the Santa Cruz Valley National Heritage Area, and for other purposes.

H.R. 2131. An act to amend the Foreign Affairs Reform and Restructuring Act of 1998 to reauthorize the United States Advisory Commission on Public Diplomacy.

H.R. 2215. An act to designate the facility of the United States Postal Service located at 140 Merriman Road in Garden City, Michigan, as the "John J. Shiven Post Office Building".

H.R. 3593. An act to amend the United States International Broadcasting Act of 1994 to extend by one year the operation of Radio Free Asia, and for other purposes.

H.R. 3617. An act to provide an extension of Federal-aid highway, highway safety, motor carrier safety, transit, and other programs funded out of the Highway Trust Fund pending enactment of a multiyear law reauthorizing such programs.

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

H. Con. Res. 74. Concurrent resolution supporting the goals and ideals of a decade of action for road safety with a global target to reduce by 50 percent the predicted increase in global road deaths between 2010 and 2020.

H. Con. Res. 178. Concurrent resolution expressing the sense of Congress that we reaffirm the historic ties between the United States and the Netherlands by recognizing the Quadricentennial celebration of the discovery of the Hudson River and honoring the enduring values of the settlers of New Netherland that continue to permeate American society.

The message further announced that the House disagrees to the amendment of the Senate to the bill (H.R. 2918) making appropriations for the Legislative Branch for the fiscal year ending September 30, 2010, and for other purposes, and agrees to conference the conference asked by the Senate on disagreeing votes of the two Houses thereon, and appoints the following Members as managers of the conference on the part of the House: Ms. WASSERMAN SCHULTZ, Mr. HONDA, Ms. MCCOLLUM, Mr. RYAN of Ohio, Mr. RUPPERSBERGER, Mr. RODRIGUEZ, Mr. OBEY, Mr. ADERHOLT, Mr. LATOURETTE, Mr. COLE, and Mr. LEWIS of California.

#### MEASURES REFERRED

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

H.R. 324. An act to establish the Santa Cruz Valley National Heritage Area, and for other purposes; to the Committee on Energy and Natural Resources.

H.R. 2131. An act to amend the Foreign Affairs Reform and Restructuring Act of 1998 to reauthorize the United States Advisory Commission on Public Diplomacy; to the Committee on Foreign Relations.

H.R. 2215. An act to designate the facility of the United States Postal Service located at 140 Merriman Road in Garden City, Michigan, as the "John J. Shiven Post Office Building"; to the Committee on Homeland Security and Governmental Affairs.

H.R. 3593. An act to amend the United States International Broadcasting Act of 1994 to extend by one year the operation of Radio Free Asia, and for other purposes; to the Committee on Foreign Relations.

The following concurrent resolutions were read, and referred as indicated:

H. Con. Res. 74. Concurrent resolution supporting the goals and ideals of a decade of action for road safety with a global target to reduce by 50 percent the predicted increase

in global road deaths between 2010 and 2020; to the Committee on Foreign Relations.

H. Con. Res. 136. Concurrent resolution authorizing the use of the Capitol Grounds for a celebration of Citizenship Day; to the Committee on Rules and Administration.

H. Con. Res. 178. Expressing the sense of Congress that we reaffirm the historic ties between the United States and the Netherlands by recognizing the Quadricentennial celebration of the discovery of the Hudson River and honoring the enduring values of the settlers of New Netherland that continue to permeate American society; to the Committee on Foreign Relations.

#### ENROLLED BILLS PRESENTED

The Secretary of the Senate reported that on today, September 24, 2009, she had presented to the President of the United States the following enrolled bill:

S. 1677. An act to reauthorize the Defense Production Act of 1950, and for other purposes.

#### EXECUTIVE AND OTHER COMMUNICATIONS

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

EC-3129. A communication from the Assistant Secretary, Bureau of Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the certification of a proposed technical assistance agreement to include the export of technical data, defense services, and defense articles to Israel for the manufacture of various F-16 components for end use by the governments of Bahrain, Belgium, Chile, Denmark, Egypt, Greece, Israel, Italy, Jordan, Morocco, The Netherlands, Norway, Oman, Pakistan, Poland, Portugal, the Republic of Korea, Singapore, Taiwan, Thailand, Turkey, the United Arab Emirates, and the United States in the amount of \$50,000,000 or more; to the Committee on Foreign Relations.

EC-3130. A communication from the Assistant Secretary, Bureau of Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the certification of a proposed manufacturing license agreement to include the export of technical data, defense services, and defense articles to Italy for the manufacture of T700/T6A aircraft engine parts and assembly of these engines for the Italian EH-101 helicopter program in the amount of \$100,000,000 or more; to the Committee on Foreign Relations.

EC-3131. A communication from the Assistant Secretary, Bureau of Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the certification of a proposed manufacturing license agreement to include the export of technical data, defense services, and defense articles for the manufacture of Inertial Systems derived from the H-4223 Ring Laser Gyro based Inertial Navigation System for end-use by the Ministry of Defense of Japan; to the Committee on Foreign Relations.

EC-3132. A communication from the Assistant Secretary, Bureau of Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the certification of an application for a license for the export of defense articles or services relative to the launch of all commercial and foreign non-commercial satellites from the Pacific Ocean utilizing a modified oil platform to Russia, Denmark, Ukraine, and Norway in

the amount of \$50,000,000 or more; to the Committee on Foreign Relations.

EC-3133. A communication from the Chief of Staff, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Television Broadcasting Services Biloxi, Mississippi" [MB Docket No. 09-125] received in the Office of the President of the Senate on September 21, 2009; to the Committee on Commerce, Science, and Transportation.

EC-3134. A communication from the Chief of the Policy Division, International Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of Parts 2 and 25 of the Commission's Rules to Allocate Spectrum and Adopt Service Rules and Procedures to Govern the Use of Vehicle-Mounted Earth Stations in Certain Frequency Bands Allocated to the Fixed-Satellite Service" (IB Docket No. 07-101) received in the Office of the President of the Senate on September 21, 2009; to the Committee on Commerce, Science, and Transportation.

EC-3135. A communication from the Attorney, Federal Railroad Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Excess Risk Estimate for Highway-Rail Grade Crossings Along the Florida East Coast Railway Line" (RIN2130-AB88) received in the Office of the President of the Senate on September 21, 2009; to the Committee on Commerce, Science, and Transportation.

EC-3136. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Standard Instrument Approach Procedures, and Takeoff Minimums and Obstacle Departure Procedures; Amendment No. 3337" ((RIN2120-AA65)(9-14-9-14/30684/3337)) received in the Office of the President of the Senate on September 21, 2009; to the Committee on Commerce, Science, and Transportation.

EC-3137. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Standard Instrument Approach Procedures, and Takeoff Minimums and Obstacle Departure Procedures; Amendment No. 3336" ((RIN2120-AA65)(9-14-9-14/30683/3336)) received in the Office of the President of the Senate on September 21, 2009; to the Committee on Commerce, Science, and Transportation.

EC-3138. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Boeing Model 747 Airplanes" ((RIN2120-AA64)(9-17-9-22/0136/NM-171)) received in the Office of the President of the Senate on September 21, 2009; to the Committee on Commerce, Science, and Transportation.

EC-3139. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; British Aerospace Regional Aircraft Model HP.137 Jetstream Mk.1, Jetstream Series 200 and 3101, and Jetstream Model 3201 Airplanes" ((RIN2120-AA64)(9-14-9-14/0817/CE-046)) received in the Office of the President of the Senate on September 21, 2009; to the Committee on Commerce, Science, and Transportation.

EC-3140. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Airbus

Model A300, A310, and A300-600 Series Airplanes" ((RIN2120-AA64)(9-17-9-22/0292/NM-011)) received in the Office of the President of the Senate on September 21, 2009; to the Committee on Commerce, Science, and Transportation.

EC-3141. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification of Class E Airspace; Sarasota, Florida" ((RIN2120-AA66)(9-14-9-14/0652/ASO-21)) received in the Office of the President of the Senate on September 21, 2009; to the Committee on Commerce, Science, and Transportation.

EC-3142. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Establishment of Class E Airspace; Saluda, South Carolina" ((RIN2120-AA66)(9-14-9-14/0603/ASO-16)) received in the Office of the President of the Senate on September 21, 2009; to the Committee on Commerce, Science, and Transportation.

EC-3143. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Establishment of Class E Airspace; Clayton, Georgia" ((RIN2120-AA66)(9-14-9-14/0605/ASO-19)) received in the Office of the President of the Senate on September 21, 2009; to the Committee on Commerce, Science, and Transportation.

EC-3144. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Establishment of Class E Airspace; Hertford, North Carolina" ((RIN2120-AA66)(9-14-9-14/0705/ASO-25)) received in the Office of the President of the Senate on September 21, 2009; to the Committee on Commerce, Science, and Transportation.

EC-3145. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Establishment of Class E Airspace; Tompkinsville, Kentucky" ((RIN2120-AA66)(9-14-9-14/0604/ASO-18)) received in the Office of the President of the Senate on September 21, 2009; to the Committee on Commerce, Science, and Transportation.

EC-3146. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Establishment of Class E Airspace; Lewisport, Kentucky" ((RIN2120-AA66)(9-14-9-14/0706/ASO-26)) received in the Office of the President of the Senate on September 21, 2009; to the Committee on Commerce, Science, and Transportation.

EC-3147. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification of Class D and Class E Airspace, Establishment of Class E Airspace; Binghamton, New York" ((RIN2120-AA66)(9-14-9-14/0202/AEA-11)) received in the Office of the President of the Senate on September 21, 2009; to the Committee on Commerce, Science, and Transportation.

EC-3148. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Amendment to Restricted Areas R-5103A, R-5103B, and R-5103C; McGregor, New Mexico" ((RIN2120-AA66)(9-17-9-17/0770/ASW-20)) received in the Office of the President of the Senate on September 21, 2009; to the Committee on Commerce, Science, and Transportation.



EC-3149. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airspace Designations; Incorporation by Reference" (Docket No. 29334)(Amendment No. 71-41)) received in the Office of the President of the Senate on September 21, 2009; to the Committee on Commerce, Science, and Transportation.

EC-3150. A communication from the Attorney Advisor, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled "Safety Zone: USCG Barque Eagle Transits of Rockland Harbor, ME, Portland Harbor, ME and Portsmouth Harbor, NH" (Docket No. USG-2009-0777) received in the Office of the President of the Senate on September 21, 2009; to the Committee on Commerce, Science, and Transportation.

EC-3151. A communication from the Attorney Advisor, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled "Safety Zone: Swim Events in Lake Champlain, NY and VT; Casco Bay, Rockland Harbor, Linekin Bay, ME" (Docket No. USG-2009-0523) received in the Office of the President of the Senate on September 21, 2009; to the Committee on Commerce, Science, and Transportation.

EC-3152. A communication from the Attorney Advisor, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled "Safety Zone: MS Harborfest Tugboat Races in Casco Bay, ME" ((RIN1625-AA00)(Docket No. USG-2009-0524)) received in the Office of the President of the Senate on September 21, 2009; to the Committee on Commerce, Science, and Transportation.

#### REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. INOUE, from the Committee on Appropriations:

Special Report entitled "Further Revised Allocation to Subcommittees of Budget Totals From the Concurrent Resolution, Fiscal Year 2010" (Rept. No. 111-78).

By Mr. ROCKEFELLER, from the Committee on Commerce, Science, and Transportation, with an amendment in the nature of a substitute:

S. 251. A bill to amend the Communications Act of 1934 to permit targeted interference with mobile radio services within prison facilities (Rept. No. 111-79).

By Mr. LEAHY, from the Committee on the Judiciary, with amendments:

S. 1670. A bill to reform and modernize the limitations on exclusive rights relating to secondary transmissions of certain signals.

#### EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of nominations were submitted:

By Mr. LEVIN for the Committee on Armed Services.

Air Force nomination of Maj. Gen. Ralph J. Jodice II, to be Lieutenant General.

Air Force nomination of Maj. Gen. William J. Rew, to be Lieutenant General.

Air Force nomination of Maj. Gen. Christopher D. Miller, to be Lieutenant General.

Army nomination of Brig. Gen. Joseph B. DiBartolomeo, to be Major General.

Army nomination of Lt. Gen. Benjamin C. Freakley, to be Lieutenant General.

Army nomination of Lt. Gen. John D. Gardner, to be Lieutenant General.

Army nomination of Lt. Gen. Frank G. Helmick, to be Lieutenant General.

Army nomination of Maj. Gen. Mark P. Hertling, to be Lieutenant General.

Army nominations beginning with Colonel Robin B. Akin and ending with Colonel Peter B. Zwack, which nominations were received by the Senate and appeared in the Congressional Record on September 9, 2009. (minus 1 nominee: Colonel Kelly J. Thomas)

Army nomination of Col. David J. Conboy, to be Brigadier General.

Army nomination of Col. James V. Young, Jr., to be Brigadier General.

Army nomination of Col. Ivan N. Black, to be Brigadier General.

Navy nominations beginning with Rear Adm. (lh) Michael H. Mittelman and ending with Rear Adm. (lh) Matthew L. Nathan, which nominations were received by the Senate and appeared in the Congressional Record on February 9, 2009.

Navy nomination of Adm. Michael G. Mullen, to be Admiral.

Navy nomination of Capt. Charles A. Rainey, to be Rear Admiral (lower half).

Navy nomination of Capt. Jonathan W. White, to be Rear Admiral (lower half).

Navy nomination of Rear Adm. (lh) David W. Titley, to be Rear Admiral.

Navy nomination of Rear Adm. (lh) Gregory J. Smith, to be Rear Admiral.

Navy nomination of Vice Adm. Bruce W. Clingan, to be Vice Admiral.

Marine Corps nomination of Gen. James N. Mattis, to be General.

Marine Corps nomination of Maj. Gen. Frank A. Panter, Jr., to be Lieutenant General.

Marine Corps nomination of Maj. Gen. Thomas D. Waldhauser, to be Lieutenant General.

Marine Corps nomination of Maj. Gen. John F. Kelly, to be Lieutenant General.

Mr. LEVIN. Mr. President, for the Committee on Armed Services I report favorably the following nomination lists which were printed in the RECORD on the dates indicated, and ask unanimous consent, to save the expense of reprinting on the Executive Calendar that these nominations lie at the Secretary's desk for the information of Senators.

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

Air Force nominations beginning with Lance L. Annicelli and ending with David A. Welge, which nominations were received by the Senate and appeared in the Congressional Record on July 14, 2009.

Air Force nomination of Thomas M. Anderson, to be Lieutenant Colonel.

Air Force nomination of Ricky B. Reaves, to be Major.

Air Force nomination of Jose R. Pereztorres, to be Major.

Air Force nominations beginning with Loyd A. Graham and ending with Christine E. Stahl, which nominations were received by the Senate and appeared in the Congressional Record on September 14, 2009.

Army nomination of Robert J. Schultz, to be Major.

Army nomination of Andrea J. Fuller, to be Major.

Army nominations beginning with Peter H. Guevara and ending with Jean R. Elysee, which nominations were received by the Senate and appeared in the Congressional Record on July 28, 2009.

Army nominations beginning with James Bane and ending with Benoit D. Tano, which nominations were received by the Senate and appeared in the Congressional Record on July 28, 2009.

Army nominations beginning with John A. Blankenbaker and ending with Virginia R. Zoller, which nominations were received by the Senate and appeared in the Congressional Record on August 3, 2009.

Army nominations beginning with William L. Abernathy, Jr. and ending with Francisco Zuniga, which nominations were received by the Senate and appeared in the Congressional Record on August 3, 2009.

Army nominations beginning with Gregory T. Adams and ending with Scott L. Zonis, which nominations were received by the Senate and appeared in the Congressional Record on August 3, 2009.

Army nomination of Cameron D. Wright, to be Colonel.

Army nomination of Andre L. Brown, to be Major.

Army nominations beginning with Kathleen E. Coffey and ending with Brian R. Trenda, which nominations were received by the Senate and appeared in the Congressional Record on August 6, 2009.

Army nomination of Sonnie D. Deyampert, to be Lieutenant Colonel.

Army nomination of Douglas Lougee, to be Colonel.

Army nomination of James Peak, to be Major.

Army nominations beginning with Joyvetta Lewis and ending with William A. Wyman, which nominations were received by the Senate and appeared in the Congressional Record on September 14, 2009.

Army nomination of Derek D. Brown, to be Major.

Army nominations beginning with Stephanie Latimer and ending with Oanh K. Tran, which nominations were received by the Senate and appeared in the Congressional Record on September 17, 2009.

Army nominations beginning with Michelle H. Martin and ending with Margaret A. Mosley, which nominations were received by the Senate and appeared in the Congressional Record on September 17, 2009.

Army nominations beginning with Robert E. Powers and ending with Mysore S. Shilpa, which nominations were received by the Senate and appeared in the Congressional Record on September 17, 2009.

Navy nomination of Erik J. Modlo, to be Lieutenant Commander.

Navy nominations beginning with Josh A. Cassada and ending with Larry R. Smith, which nominations were received by the Senate and appeared in the Congressional Record on August 3, 2009.

Navy nominations beginning with Matthew J. Acanfora and ending with David W. York, which nominations were received by the Senate and appeared in the Congressional Record on August 3, 2009.

Navy nominations beginning with Ron J. Arellano and ending with Joel A. Yates, which nominations were received by the Senate and appeared in the Congressional Record on August 3, 2009.

Navy nominations beginning with Benjamin I. Abney and ending with McKinnya J. Williamsrobinson, which nominations were received by the Senate and appeared in the Congressional Record on August 3, 2009.

Navy nominations beginning with Christopher D. Addington and ending with Kurt A. Young, which nominations were received by the Senate and appeared in the Congressional Record on August 3, 2009.

Navy nominations beginning with Kelly W. Bowman, Jr. and ending with Michael Windom, which nominations were received by the Senate and appeared in the Congressional Record on August 3, 2009.

Navy nominations beginning with Hasan Abdulmutakallim and ending with Kenya D. Williamson, which nominations were received by the Senate and appeared in the Congressional Record on August 3, 2009.

Navy nominations beginning with Denise G. Barham and ending with Herlinda K. Sweeney, which nominations were received by the Senate and appeared in the Congressional Record on August 3, 2009.

Navy nominations beginning with Guillermo R. Amezcaga and ending with Mike E. Svatek, which nominations were received by the Senate and appeared in the Congressional Record on August 3, 2009.

Navy nominations beginning with Christopher W. Anderson and ending with Colin D. Xander, which nominations were received by the Senate and appeared in the Congressional Record on August 3, 2009.

Navy nominations beginning with Matthew L. Abbot and ending with Stuart R. Zurn, which nominations were received by the Senate and appeared in the Congressional Record on August 3, 2009.

Navy nominations beginning with Paul C. Kerr and ending with Bruce A. Waterman, which nominations were received by the Senate and appeared in the Congressional Record on August 6, 2009.

Navy nominations beginning with Scott A. Anderson and ending with Gwendolyn Willis, which nominations were received by the Senate and appeared in the Congressional Record on August 6, 2009.

Navy nominations beginning with Keith R. Barkey and ending with Jason D. Zeda, which nominations were received by the Senate and appeared in the Congressional Record on August 6, 2009.

Navy nominations beginning with Paul S. Anderson and ending with Michael D. Williams, which nominations were received by the Senate and appeared in the Congressional Record on August 6, 2009.

Navy nominations beginning with Robin M. Allen and ending with Scott Y. Yamamoto, which nominations were received by the Senate and appeared in the Congressional Record on August 6, 2009.

Navy nominations beginning with James D. Abbott and ending with Robert W. Zurschmit, which nominations were received by the Senate and appeared in the Congressional Record on August 6, 2009.

Navy nominations beginning with Jason T. Baltimore and ending with Ian S. Wexler, which nominations were received by the Senate and appeared in the Congressional Record on August 6, 2009.

Navy nominations beginning with Joel R. Bealer and ending with Richard G. Zeber, which nominations were received by the Senate and appeared in the Congressional Record on August 6, 2009.

Navy nominations beginning with Martin J. Anerino and ending with Walter H. Williams, which nominations were received by the Senate and appeared in the Congressional Record on August 6, 2009.

Navy nominations beginning with Roger S. Akins and ending with Tingwei Yang, which nominations were received by the Senate and appeared in the Congressional Record on August 6, 2009.

Navy nominations beginning with Brian J. Ellis and ending with Matthew L. Tucker, which nominations were received by the Senate and appeared in the Congressional Record on September 14, 2009.

Navy nominations beginning with Anthony T. Cowden and ending with Jared E. Scott, which nominations were received by the Senate and appeared in the Congressional Record on September 14, 2009.

Navy nominations beginning with Neri B. Barnea and ending with William O. Voelker, which nominations were received by the Senate and appeared in the Congressional Record on September 17, 2009.

Navy nominations beginning with Anita Aminoshariae and ending with Denny Martin, which nominations were received by the Senate and appeared in the Congressional Record on September 17, 2009.

Navy nominations beginning with Tracy D. Emerson and ending with David K. Shellington, which nominations were received by the Senate and appeared in the Congressional Record on September 17, 2009.

By Mr. LEAHY for the Committee on the Judiciary.

Paul Joseph Fishman, of New Jersey, to be United States Attorney for the District of New Jersey for the term of four years.

Jenny A. Durkan, of Washington, to be United States Attorney for the Western District of Washington for the term of four years.

Florence T. Nakakuni, of Hawaii, to be United States Attorney for the District of Hawaii for the term of four years.

Deborah K. R. Gilg, of Nebraska, to be United States Attorney for the District of Nebraska for the term of four years.

Ignacia S. Moreno, of New York, to be an Assistant Attorney General.

(Nominations without an asterisk were reported with the recommendation that they be confirmed.)

### INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

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

By Mr. DORGAN (for himself, Mr. TESTER, Mr. INOUE, Mr. AKAKA, Mr. BAUCUS, Mr. UDALL of New Mexico, Mr. BINGAMAN, and Mr. FRANKEN):

S. 1703. A bill to amend the Act of June 18, 1934, to reaffirm the authority of the Secretary of the Interior to take land into trust for Indian tribes; to the Committee on Indian Affairs.

By Mr. NELSON of Florida (for himself, Ms. SNOWE, and Mr. CARDIN):

S. 1704. A bill to hold the surviving Nazi war criminals accountable for the war crimes, genocide, and crimes against humanity they committed during World War II, by encouraging foreign governments to more efficiently prosecute and extradite wanted criminals; to the Committee on the Judiciary.

By Mr. BARRASSO:

S. 1705. A bill to suspend temporarily the duty on certain acrylic fiber tow containing a minimum of 92 percent acrylonitrile; to the Committee on Finance.

By Mr. BARRASSO:

S. 1706. A bill to suspend temporarily the duty on certain acrylic fiber tow; to the Committee on Finance.

By Mr. KERRY (for himself and Mr. LUGAR):

S. 1707. A bill to authorize appropriations for fiscal years 2010 through 2014 to promote an enhanced strategic partnership with Pakistan and its people, and for other purposes; considered and passed.

By Ms. KLOBUCHAR (for herself and Mrs. HAGAN):

S. 1708. A bill to establish a grant program to prevent truancy, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Ms. STABENOW (for herself, Mr. THUNE, Mr. JOHNSON, Mr. COCHRAN, Mr. JOHANNES, Mr. GRASSLEY, Mr. BARRASSO, Mr. ISAKSON, Mr. CHAMBLISS, Ms. KLOBUCHAR, Mr. TESTER, Mr. BAUCUS, Mr. HARKIN, Mr. SANDERS, Mrs. GILLIBRAND, Mr. CRAPO, Mr. BENNETT, Mr. LEAHY, Mr. BROWNBACK, and Mr. NELSON of Nebraska):

S. 1709. A bill to amend the National Agricultural Research, Extension, and Teaching Policy Act of 1977 to establish a grant pro-

gram to promote efforts to develop, implement, and sustain veterinary services, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. VITTER (for himself and Mr. SHELBY):

S. 1710. A bill to prohibit recipients of TARP assistance from funding ACORN, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. REID (for himself and Mr. ENSIGN):

S. 1711. A bill to amend the Internal Revenue Code of 1986 to provide tax incentives for making homes more water-efficient, for building new water-efficient homes, for public water conservation, and for other purposes; to the Committee on Finance.

By Mr. REID (for himself, Mrs. BOXER, and Mr. CARDIN):

S. 1712. A bill to promote water efficiency, conservation, and adaptation, and for other purposes; to the Committee on Environment and Public Works.

By Mr. REID (for himself, Mr. BAUCUS, Mr. HATCH, Mr. TESTER, and Mr. UDALL of New Mexico):

S. 1713. A bill to establish loan guarantee programs to develop biochar technology using excess plant biomass, to establish biochar demonstration projects on public land, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. DURBIN:

S. 1714. A bill to authorize grants for the creation, update, or adaption of open textbooks, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

### SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

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

By Mrs. FEINSTEIN (for herself, Mr. ROCKEFELLER, Mrs. GILLIBRAND, Mr. CARPER, Ms. MIKULSKI, Mr. LIEBERMAN, Ms. COLLINS, Mr. REID, Mr. LEVIN, Mr. BENNETT, Ms. SNOWE, Ms. LANDRIEU, Mr. HATCH, Mr. BAYH, and Mr. VOINOVICH):

S. Res. 285. A resolution supporting the goals and ideals of national cybersecurity awareness month and raising awareness and enhancing the State of cybersecurity in the United States; to the Committee on Commerce, Science, and Transportation.

By Mr. ISAKSON (for himself and Mr. CHAMBLISS):

S. Res. 286. A resolution expressing condolences to the families of the individuals killed during unusual storms and floods in the State of Georgia between September 18 and September 21, 2009, and expressing gratitude to all of the emergency personnel who continue to work with unyielding determination to meet the needs of Georgia's residents; considered and agreed to.

By Mr. BROWN:

S. Res. 287. Honoring the 25th anniversary of the enactment of the Drug Price Competition and Patent Term Restoration Act of 1984 (the Hatch-Waxman Act); to the Committee on the Judiciary.

### ADDITIONAL COSPONSORS

S. 327

At the request of Mr. LEAHY, the name of the Senator from Minnesota (Mr. FRANKEN) was added as a cosponsor of S. 327, a bill to amend the Violence Against Women Act of 1994 and

the Omnibus Crime Control and Safe Streets Act of 1968 to improve assistance to domestic and sexual violence victims and provide for technical corrections.

S. 624

At the request of Mr. DURBIN, the name of the Senator from New York (Mrs. GILLIBRAND) was added as a cosponsor of S. 624, a bill to provide 100,000,000 people with first-time access to safe drinking water and sanitation on a sustainable basis by 2015 by improving the capacity of the United States Government to fully implement the Senator Paul Simon Water for the Poor Act of 2005.

S. 628

At the request of Mr. CONRAD, the name of the Senator from Connecticut (Mr. LIEBERMAN) was added as a cosponsor of S. 628, a bill to provide incentives to physicians to practice in rural and medically underserved communities.

S. 723

At the request of Mr. WYDEN, the name of the Senator from Mississippi (Mr. WICKER) was added as a cosponsor of S. 723, a bill to prohibit the introduction or delivery for introduction into interstate commerce of novelty lighters, and for other purposes.

S. 729

At the request of Mr. DURBIN, the name of the Senator from Colorado (Mr. BENNET) was added as a cosponsor of S. 729, a bill to amend the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 to permit States to determine State residency for higher education purposes and to authorize the cancellation of removal and adjustment of status of certain alien students who are long-term United States residents and who entered the United States as children, and for other purposes.

S. 839

At the request of Mr. CASEY, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 839, a bill to assist States in making voluntary high quality universal prekindergarten programs available to 3- to 5-year olds for at least 1 year preceding kindergarten.

S. 1055

At the request of Mrs. BOXER, the name of the Senator from Oklahoma (Mr. INHOFE) was added as a cosponsor of S. 1055, a bill to grant the congressional gold medal, collectively, to the 100th Infantry Battalion and the 442nd Regimental Combat Team, United States Army, in recognition of their dedicated service during World War II.

S. 1301

At the request of Mr. MENENDEZ, the name of the Senator from Rhode Island (Mr. WHITEHOUSE) was added as a cosponsor of S. 1301, a bill to direct the Attorney General to make an annual grant to the A Child Is Missing Alert and Recovery Center to assist law enforcement agencies in the rapid recovery

of missing children, and for other purposes.

S. 1304

At the request of Mr. GRASSLEY, the name of the Senator from Nebraska (Mr. NELSON) was added as a cosponsor of S. 1304, a bill to restore the economic rights of automobile dealers, and for other purposes.

S. 1337

At the request of Mr. AKAKA, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. 1337, a bill to exempt children of certain Filipino World War II veterans from the numerical limitations on immigrant visas.

S. 1422

At the request of Mrs. MURRAY, the name of the Senator from Illinois (Mr. BURRIS) was added as a cosponsor of S. 1422, a bill to amend the Family and Medical Leave Act of 1993 to clarify the eligibility requirements with respect to airline flight crews.

S. 1547

At the request of Mr. REED, the name of the Senator from Illinois (Mr. BURRIS) was added as a cosponsor of S. 1547, a bill to amend title 38, United States Code, and the United States Housing Act of 1937 to enhance and expand the assistance provided by the Department of Veterans Affairs and the Department of Housing and Urban Development to homeless veterans and veterans at risk of homelessness, and for other purposes.

S. 1584

At the request of Mr. MERKLEY, the name of the Senator from Colorado (Mr. BENNET) was added as a cosponsor of S. 1584, a bill to prohibit employment discrimination on the basis of sexual orientation or gender identity.

S. 1624

At the request of Mr. WHITEHOUSE, the name of the Senator from Minnesota (Mr. FRANKEN) was added as a cosponsor of S. 1624, a bill to amend title 11 of the United States Code, to provide protection for medical debt homeowners, to restore bankruptcy protections for individuals experiencing economic distress as caregivers to ill, injured, or disabled family members, and to exempt from means testing debtors whose financial problems were caused by serious medical problems, and for other purposes.

S. 1661

At the request of Mr. KOHL, the name of the Senator from Minnesota (Mr. FRANKEN) was added as a cosponsor of S. 1661, a bill to protect older Americans from misleading and fraudulent marketing practices, with the goal of increasing retirement security.

S. 1666

At the request of Ms. COLLINS, the name of the Senator from Virginia (Mr. WEBB) was added as a cosponsor of S. 1666, a bill to require the Administrator of the Environmental Protection Agency to satisfy certain conditions before issuing to producers of mid-level

ethanol blends a waiver from certain requirements under the Clean Air Act, and for other purposes.

S. 1668

At the request of Mr. BENNET, the name of the Senator from Idaho (Mr. RISCH) 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. 1678

At the request of Mr. CARDIN, the names of the Senator from Georgia (Mr. CHAMBLISS) and the Senator from New York (Mrs. GILLIBRAND) were added as cosponsors of S. 1678, a bill to amend the Internal Revenue Code of 1986 to extend the first-time homebuyer tax credit, and for other purposes.

S. 1685

At the request of Mr. SANDERS, the name of the Senator from Pennsylvania (Mr. CASEY) was added as a cosponsor of S. 1685, a bill to provide an emergency benefit of \$250 to seniors, veterans, and persons with disabilities in 2010 to compensate for the lack of a cost-of-living adjustment for such year, and for other purposes.

S. 1699

At the request of Mr. REED, the name of the Senator from South Carolina (Mr. GRAHAM) was added as a cosponsor of S. 1699, a bill to amend the Supplemental Appropriations Act, 2008 to provide for the temporary availability of certain additional emergency unemployment compensation, and for other purposes.

S. CON. RES. 37

At the request of Mr. JOHANNIS, the name of the Senator from Georgia (Mr. ISAKSON) was added as a cosponsor of S. Con. Res. 37, a concurrent resolution supporting the goals and ideals of senior caregiving and affordability.

AMENDMENT NO. 2441

At the request of Mr. DORGAN, the name of the Senator from North Dakota (Mr. CONRAD) was added as a cosponsor of amendment No. 2441 proposed to H.R. 2996, a bill making appropriations for the Department of the Interior, environment, and related agencies for the fiscal year ending September 30, 2010, and for other purposes.

AMENDMENT NO. 2477

At the request of Mr. HARKIN, the names of the Senator from Nebraska (Mr. JOHANNIS) and the Senator from Missouri (Mrs. MCCASKILL) were added as cosponsors of amendment No. 2477 intended to be proposed to H.R. 2996, a bill making appropriations for the Department of the Interior, environment, and related agencies for the fiscal year ending September 30, 2010, and for other purposes.

AMENDMENT NO. 2491

At the request of Ms. MURKOWSKI, her name was added as a cosponsor of

amendment No. 2491 proposed to H.R. 2996, a bill making appropriations for the Department of the Interior, environment, and related agencies for the fiscal year ending September 30, 2010, and for other purposes.

## AMENDMENT NO. 2498

At the request of Ms. COLLINS, the name of the Senator from Wyoming (Mr. BARRASSO) was added as a cosponsor of amendment No. 2498 proposed to H.R. 2996, a bill making appropriations for the Department of the Interior, environment, and related agencies for the fiscal year ending September 30, 2010, and for other purposes.

## AMENDMENT NO. 2501

At the request of Mr. CRAPO, his name was added as a cosponsor of amendment No. 2501 proposed to H.R. 2996, a bill making appropriations for the Department of the Interior, environment, and related agencies for the fiscal year ending September 30, 2010, and for other purposes.

## AMENDMENT NO. 2530

At the request of Ms. MURKOWSKI, the names of the Senator from Wyoming (Mr. BARRASSO), the Senator from Nebraska (Mr. JOHANNES) and the Senator from Georgia (Mr. CHAMBLISS) were added as cosponsors of amendment No. 2530 intended to be proposed to H.R. 2996, a bill making appropriations for the Department of the Interior, environment, and related agencies for the fiscal year ending September 30, 2010, and for other purposes.

## AMENDMENT NO. 2534

At the request of Ms. STABENOW, her name was added as a cosponsor of amendment No. 2534 proposed to H.R. 2996, a bill making appropriations for the Department of the Interior, environment, and related agencies for the fiscal year ending September 30, 2010, and for other purposes.

## AMENDMENT NO. 2535

At the request of Mr. BARRASSO, the name of the Senator from North Dakota (Mr. DORGAN) was added as a cosponsor of amendment No. 2535 proposed to H.R. 2996, a bill making appropriations for the Department of the Interior, environment, and related agencies for the fiscal year ending September 30, 2010, and for other purposes.

## AMENDMENT NO. 2543

At the request of Mr. TESTER, the name of the Senator from Idaho (Mr. RISCH) was added as a cosponsor of amendment No. 2543 intended to be proposed to H.R. 2996, a bill making appropriations for the Department of the Interior, environment, and related agencies for the fiscal year ending September 30, 2010, and for other purposes.

## STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. DORGAN (for himself, Mr. TESTER, Mr. INOUE, Mr. AKAKA, Mr. BAUCUS, Mr. UDALL of New Mexico, Mr. BINGAMAN, and Mr. FRANKEN):

S. 1703. A bill to amend the Act of June 18, 1934, to reaffirm the authority of the Secretary of the Interior to take land into trust for Indian tribes; to the Committee on Indian Affairs.

Mr. DORGAN. Mr. President, I rise today to introduce a technical amendment to the Act of June 18, 1934.

On February 24, 2009, the Supreme Court issued its decision in the *Carcieri v. Salazar* case. In that decision the Supreme Court held that the Secretary of the Interior exceeded his authority in taking land into trust for a tribe that was not under Federal jurisdiction, or recognized, at the time the Indian Reorganization Act was enacted in 1934.

The legislation I am introducing today is necessary to reaffirm the Secretary's authority to take lands into trust for Indian tribes, regardless of when they were recognized by the Federal government. The amendment ratifies the prior trust acquisitions of the Secretary, who for the past 75 years has been exercising his authority to take lands into trust, as intended by the Indian Reorganization Act.

On May 21, 2009, the Senate Committee on Indian Affairs held a hearing to examine the executive branch's authority to take land into trust for Indian tribes. At that hearing, it became clear that Congress needs to act to resolve the uncertainty created by the Supreme Court's decision. Therefore, this legislation was developed in consultation with interested parties to clarify the Secretary's authority.

Inaction by Congress could significantly impact planned development projects on Indian trust lands, including the building of homes and community centers; result in a loss of jobs in an already challenging economic environment; and create costly and unnecessary litigation.

Further, if the decision stands, it would have the effect of creating two classes of Indian tribes—those who were recognized as of 1934, for whom land may be taken into trust, and those recognized after 1934 that would be unable to have land taken into trust status. Creating two classes of tribes is unacceptable and is contrary to prior Acts of this Congress. In 1994, Congress passed the Federally Recognized Indian Tribe List Act to ensure that all tribes are treated equally, regardless of their date of recognition.

I want to thank Senators TESTER, INOUE, AKAKA, BAUCUS, UDALL, BINGAMAN, and FRANKEN for their support on this legislation. My cosponsors are well aware of the resulting impact this decision could have on our Native American communities. Affected tribes deserve our timely consideration of this bill. I urge my colleagues to join me in supporting the passage of this legislation.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

## S. 1703

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

## SECTION 1. MODIFICATION OF DEFINITION.

(a) IN GENERAL.—Section 19 of the Act of June 18, 1934 (commonly known as the "Indian Reorganization Act") (25 U.S.C. 479), is amended—

(1) in the first sentence—

(A) by striking "The term" and inserting "Effective beginning on June 18, 1934, the term"; and

(B) by striking "any recognized Indian tribe now under Federal jurisdiction" and inserting "any federally recognized Indian tribe"; and

(2) by striking the third sentence and inserting the following: "In this section, the term 'Indian tribe' means any Indian or Alaska Native tribe, band, nation, pueblo, village, or community that the Secretary of the Interior acknowledges to exist as an Indian tribe."

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect as if included in the Act of June 18, 1934 (commonly known as the "Indian Reorganization Act") (25 U.S.C. 479), on the date of enactment of that Act.

By Mr. NELSON, of Florida (for himself, Ms. SNOWE, and Mr. CARDIN):

S. 1704. A bill to hold the surviving Nazi war criminals accountable for the war crimes, genocide, and crimes against humanity they committed during World War II, by encouraging foreign governments to more efficiently prosecute and extradite wanted criminals; to the Committee on the Judiciary.

Mr. NELSON of Florida. Mr. President, I rise today to introduce the World War II War Crimes Accountability Act of 2009. The bill seeks to hold the surviving Nazi war criminals accountable for their crimes by encouraging foreign governments to prosecute and extradite wanted criminals. I would like to thank my colleagues, Senators SNOWE and CARDIN, for supporting this important legislation.

The atrocities committed by the Nazis and their allies during the Second World War were vast and have helped shape the modern concept of crimes against humanity. After the war, some of the perpetrators of these heinous crimes escaped justice and have been living out their days as free men.

In an effort to bring these fugitives to justice, the Simon Wiesenthal Center and the Targum Shlishi Foundation of Miami, Florida launched "Operation: Last Chance" to help identify and facilitate the prosecution of the remaining unprosecuted Nazi war criminals and to assist governments in bringing Nazi war criminals to justice.

Among the Center's many open cases there is Alois Brunner, a key operative of Adolf Eichmann, who was responsible for the deportation of 47,000 Jews from Austria, 44,000 Jews from Greece, 23,500 Jews from France, and 14,000 Jews from Slovakia to Nazi death camps. He lived in Syria for decades and the Syrian government refused to

cooperate with international prosecution efforts. He was convicted in absentia for his crimes by France. He was born in 1912 and last seen in 2001. While it is doubtful that he is still alive, there is no conclusive evidence of his death.

Another case is that of Milivoj Asner, who served as the police chief of the city of Slavenska Pozega. During 1941 and 1942, Mr. Asner orchestrated the robbery, persecution and destruction of the local Serb, Jewish, and Gypsy communities, which culminated in the deportation of hundreds of civilians to Ostascha concentration camps, where most of the deportees were murdered. After his exposure in Operation: Last Chance, the former police chief later escaped once again to Klagenfurt, Austria where he currently resides.

Within our own government, the Office of Special Investigations at the Justice Department is tasked with identifying, investigating and denying refuge in the United States to the Nazi persecutors. As a result, the U.S. is the only country in the world to have won an "A" rating from the Simon Wiesenthal Center for effectiveness in pursuing justice for Holocaust crimes.

Yet despite the best efforts of the U.S. Government and tireless work of organizations like the Wiesenthal Center, some countries continue to harbor wanted Nazis and refuse to accept the extradition of Nazi criminals from other countries, including the U.S. This inaction is shameful.

It is incumbent upon us as Americans to honor the memory of those killed in the Holocaust and to pay tribute to the sacrifices of the men and women who fought and died in World War II. The last surviving Nazi war criminals are dying off. We must do everything in our power, including equipping our own government with important tools, to bring these war criminals to justice before it is too late.

The World War II War Crimes Accountability Act seeks to strengthen U.S. efforts by directing the Attorney General to assess a country's cooperation in prosecuting and extraditing war criminals when considering prospective countries for admission into the Visa Waiver Program. It also requires the President to issue an annual report describing such cooperation for countries seeking entry into or renewal of the Visa Waiver Program.

I believe that giving the administration this added review process will help encourage foreign governments to prosecute and extradite wanted criminals. I hope that others will join me in cosponsoring this legislation and voting it into law.

Time is of the essence. Surviving Nazi war criminals are becoming increasingly rare. We must do all that we can before it is too late.

By Mr. REID (for himself and Mr. ENSIGN):

S. 1711. A bill to amend the Internal Revenue Code of 1986 to provide tax in-

centives for making homes more water-efficient, for building new water-efficient homes, for public water conservation, and for other purposes; to the Committee on Finance.

Mr. REID. Mr. President, I rise today to introduce three pieces of legislation: the Water Efficiency and Conservation Investment Act, S. 1711, the Water Efficiency, Conservation and Adaptation Act, S. 1712, and the Water Efficiency via Carbon Harvesting and Restoration Act, S. 1713.

Water is our world's most precious and important limited natural resource—access to water is vital for every person and life form on this planet. Albert Szent-Gyorgyi, a Hungarian Nobel Prize winning doctor, once said that "water is life's mater and matrix, mother and medium. There is no life without water."

While Nevada is blessed with beautiful desert landscapes and tremendous clean energy resources, we are not blessed with abundant water supplies. That is why I am introducing legislation together with my friend Senator ENSIGN and others that will: encourage Americans to use water more efficiently; ensure that future generations have access to adequate supplies of clean water; and convert water stealing invasive weeds to sequestered carbon and clean-burning fuels.

A lengthy drought is taking its toll on the Colorado River Basin states, especially Nevada, Arizona, and California. More than 30 million people rely on water from the Colorado River, which supplies Southern Nevada with 90 percent of its water. Water levels at Lake Mead, where water used by 1.9 million Nevadans is stored, have dropped by roughly 100 feet. If the drought in the Southwest continues the lake could dry up in the next 12 years, according to a study by the Scripps Institution of Oceanography.

Growing population, rising water demand, climate change induced disruptions to the water cycle, aging infrastructure, and water disputes all necessitate early action so the water resources we rely on today can be enjoyed by the next generation.

Even without considering the effects of climate change, the U.S. Global Change Research Program has identified many serious water supply conflicts in the Colorado River Basin states by 2025. Factoring in the USGCRP's projection that precipitation runoff will decrease in the Southwest by up to 40 percent in some areas over the next half century as a result of a changing climate, it is clear that immediate and constant attention is and will be necessary to address these water supply problems.

Legislation is urgently needed to promote greater water efficiency and create better financing options for improving our infrastructure to save, recycle and reuse water. Strong tax incentives to make our homes and yards more water efficient and to increase investments in extending the life of our

existing water supplies will help secure water scarce regions against the economic and health catastrophes that would occur if their water supplies were to run dry.

We need to invest meaningfully in planning for, adapting to and mitigating the effects of climate change on water supplies and water infrastructure with which Nevadans are becoming all too familiar. It is important that we start planning right away for a more secure water supply future.

Investing in water efficiency and adapting our water systems to a changing climate not only prepares us for the future, it also can save consumers hundreds of dollars on their water bills. Additionally, adequate funding for the legislation I am introducing today could create tens of thousands of jobs. A \$1 million direct investment in water efficiency is estimated to create between 15 and 22 jobs—more than double the jobs created by coal or oil investments.

Together, the Water Efficiency and Conservation Investment Act and the Water Efficiency, Conservation and Adaptation Act provide the right balance of tax incentives, financing and grant programs to begin formulating a national strategy to address these pressing needs and ensure that current and future Nevadans will have greater and more sustainable economic growth opportunities.

The Water Efficiency via Carbon Harvesting and Restoration Act also helps protect our water resources, and does much more. Invasive weeds and dangerous fuels buildup in Western landscapes have become recipes for disaster on a seemingly annual basis. The Bureau of Land Management has estimated that a single acre of salt cedar robs our watersheds of nearly a million gallons of water each year. The National Park Service has found that the infestation at Lake Mead National Recreation Area alone covers almost 7,000 acres. Removing the salt cedar from this one area would restore enough water to satisfy the needs of 72,000 Las Vegas residents.

At the same time, expansion of pinyon and juniper now covers up to 9 million acres of the public lands in the Great Basin, forming dense thickets impenetrable to most wildlife, and creating enormous wildland fire hazards.

Using biochar production technology, we can restore these impacted landscapes, while producing valuable products that can help address climate change through long term carbon sequestration, benefit agriculture and the environment by reducing the need for chemical fertilizers, and produce cleaner-burning fuels to help meet our Nation's energy needs. All of this can be achieved while saving billions of gallons of water, reducing the risks of hotter and more difficult to extinguish wildfires, and creating rural economic development opportunities.

Let me offer a brief description of how biochar technology works: the

woody material in invasive plants is heated in the absence of oxygen to produce biochar, as well as bio-oil and syngas which can then be used to power the production process. Biochar is nearly pure carbon, and when applied to landscapes and agricultural fields it has long-lasting benefits. It significantly improves soil quality, decreases fertilizer runoff, and increases plant health and crop yields. Studies have found that biochar is stable for hundreds if not thousands of years, keeping this carbon from being released into the atmosphere where it would contribute to climate change.

These bills will do much to extend the life of our water resources in the face of growing water demand and climate disruptions, while improving the health of ecosystems. Under these bills, Nevadans would have new options to save money on their water bills and new ways to make money by eliminating water-hungry invasive species. And, the low-cost financing options that will help communities adapt to drought and water scarcity due to global climate change will ensure sustainable economic growth and stimulate more green job creation.

As these bills move through the legislative process, I look forward to working with my colleagues to ensure that adequate attention is paid to the tremendous work our Nation must do so that future generations may enjoy a more secure and predictable clean water future.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 1711

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

#### SECTION 1. SHORT TITLE.

This Act may be cited as the “Water Efficiency and Conservation Investment Act of 2009”.

#### SEC. 2. RESIDENTIAL WATER EFFICIENCY CREDIT.

(a) IN GENERAL.—Subpart B of part IV of subchapter A of chapter 1 of the Internal Revenue Code is amended by inserting after section 30D the following new section:

##### “SEC. 30E. RESIDENTIAL WATER EFFICIENCY CREDIT.

“(a) ALLOWANCE OF CREDIT.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to 50 percent of the qualified water efficiency property expenditures paid or incurred during such taxable year.

“(b) LIMITATION.—The credit allowed under this section with respect to any taxpayer for any taxable year shall not exceed \$750.

“(c) QUALIFIED WATER EFFICIENCY PROPERTY EXPENDITURES.—For purposes of this section—

“(1) IN GENERAL.—The term ‘qualified water efficiency property expenditures’ means expenditures for qualified water efficiency property which is—

“(A) installed on or in connection with a dwelling unit located in the United States that is owned by the taxpayer (without re-

gard to whether any other person occupies such dwelling unit as a residence), and

“(B) originally placed in service by the taxpayer.

Such term includes expenditures for labor costs properly allocable to the onsite preparation, assembly, or original installation of such property.

“(2) QUALIFIED WATER EFFICIENCY PROPERTY.—The term ‘qualified water efficiency property’ means—

“(A) property which meets the national efficiency standards and specifications for residential water-using fixtures, appliances, and devices under the WaterSense program of the Environmental Protection Agency that are in effect on the date of purchase of such property, but only if such property improves water efficiency by no less than 20 percent over standard models of similar water-using fixtures and appliances as determined by the Administrator of such Agency, and

“(B) water efficient landscaping which is installed by a landscape irrigation professional certified by such WaterSense program and which reduces water use by no less than 50 percent, as certified by such professional.

“(3) STATE WATER EFFICIENCY STANDARDS.—In the case of a State that has mandatory water efficiency standards for any property that are more stringent than the standards and specifications described in paragraph (2), property installed on or in connection with a dwelling unit that is located in such State must meet such water efficiency standards of such State in order to be treated as qualified water efficiency property for purposes of this section.

“(d) SPECIAL RULES.—For purposes of this section—

“(1) JOINT OWNERSHIP OF WATER EFFICIENCY ITEMS.—

“(A) IN GENERAL.—An expenditure shall not fail to be treated as a qualified water efficiency property expenditure merely because such expenditure was made with respect to 2 or more dwelling units.

“(B) ALLOCATION OF EXPENDITURES.—In the case of an expenditure made with respect to 2 or more dwelling units, for purposes of determining the credit allowable under this section, such expenditure shall be allocated among such dwelling units in proportion to the amount of the expenditure made for each dwelling unit.

“(2) REFUNDS DISREGARDED IN THE ADMINISTRATION OF FEDERAL PROGRAMS AND FEDERALLY ASSISTED PROGRAMS.—Any credit or refund allowed or made to any individual by reason of this section shall not be taken into account as income and shall not be taken into account as resources, for purposes of determining the eligibility of such individual or any other individual for benefits or assistance, or the amount or extent of benefits or assistance, under any Federal program or under any State or local program financed in whole or in part with Federal funds.

“(3) BASIS ADJUSTMENTS.—For purposes of this subtitle, if a credit is allowed under subsection (a) for any expenditure with respect to any property, the increase in the basis of such property which would (but for this subsection) result from such expenditure shall be reduced by the amount of the credit so allowed.

“(4) DENIAL OF DOUBLE BENEFIT.—

“(A) IN GENERAL.—No deduction or credit under any other provision of this chapter shall be allowed with respect to the amount of any qualified water efficiency property expenditure taken into account under this section.

“(B) REBATE PROGRAMS.—The amount of any qualified water efficiency property expenditure for which an individual is reimbursed under any Federal government pro-

gram shall not be taken into account for purposes of determining the credit under subsection (a) with respect to such individual.

“(e) APPLICATION WITH OTHER CREDITS.—

“(1) BUSINESS CREDIT.—

“(A) BUSINESS CREDIT TREATED AS PART OF GENERAL BUSINESS CREDIT.—So much of the credit which would be allowed under subsection (a) for any taxable year (determined without regard to this subsection) that is attributable to property of a character subject to an allowance for depreciation shall be treated as a credit listed in section 38(b) for such taxable year (and not allowed under subsection (a)).

“(B) DISALLOWANCE OF DEPRECIATION.—In the case of an expenditure for property described in subparagraph (A) with respect to which a credit is allowed under section 38(b) by reason of such subparagraph, the depreciation allowance for such property in all taxable years shall be zero and no deduction shall be available under section 167 with respect to such property.

“(2) PERSONAL CREDIT.—

“(A) IN GENERAL.—For purposes of this title, the credit allowed under subsection (a) for any taxable year (determined after application of paragraph (1)) shall be treated as a credit allowable under subpart A for such taxable year.

“(B) LIMITATION BASED ON AMOUNT OF TAX.—In the case of a taxable year to which section 26(a)(2) does not apply, the credit allowed under subsection (a) for any taxable year (determined after application of paragraph (1)) shall not exceed the excess of—

“(i) the sum of the regular tax liability (as defined in section 26(b)), plus

“(ii) the sum of the credits allowable under subpart A (other than this section and sections 23, 25D, 30, 30B, and 30D) and section 27 for the taxable year.

“(f) TERMINATION.—This section shall not apply with respect to any property placed in service after December 31, 2014.”.

(b) CONFORMING AMENDMENTS.—

(1) Section 24(b)(3)(B) of the Internal Revenue Code of 1986 is amended by striking “and 30D” and inserting “, 30D, and 30E”.

(2) Section 25(e)(1)(C)(ii) of such Code is amended by inserting “30E,” after “30D,”.

(3) Section 25B(g)(2) of such Code is amended by striking “and 30D” and inserting “30D, and 30E”.

(4) Section 904(i) of such Code is amended by striking “and 30D” and inserting “30D, and 30E”.

(5) Section 1016(a) of such Code is amended by striking “and” at the end of paragraph (36), by striking the period at the end of paragraph (37) and inserting “, and”, and by adding at the end the following new paragraph:

“(38) to the extent provided in section 30E(d)(3).”.

(6) Section 1400C(d)(2) of such Code is amended by striking “and 30D” and inserting “30D, and 30E”.

(c) CREDIT TO BE PART OF BUSINESS CREDIT.—Section 38(b) of the Internal Revenue Code of 1986 is amended by striking “plus” at the end of paragraph (34), by striking the period at the end of paragraph (35) and inserting “, plus”, and by adding at the end the following new paragraph:

“(36) the portion of the residential water efficiency credit to which section 30E(e)(1) applies.”.

(d) CLERICAL AMENDMENT.—The table of sections for subpart B of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by inserting after the item relating to section 30D the following new item:

“Sec. 30E. Residential water efficiency credit.”.



(e) **EFFECTIVE DATE.**—The amendments made by this section shall apply to property placed in service after December 31, 2009.

### SEC. 3. NEW WATER EFFICIENT HOME CREDIT.

(a) **IN GENERAL.**—Subpart D of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by adding at the end the following new section:

#### “SEC. 45R. NEW WATER EFFICIENT HOME CREDIT.”

“(a) **ALLOWANCE OF CREDIT.**—For purposes of section 38, in the case of an eligible contractor, the new water efficient home credit for the taxable year is an amount equal to \$1,500 for each qualified new water efficient home which is—

“(1) constructed by such eligible contractor, and

“(2) acquired by a person from such eligible contractor during the taxable year.

“(b) **DEFINITIONS.**—For purposes of this section—

“(1) **ELIGIBLE CONTRACTOR.**—The term ‘eligible contractor’ means a person who is certified as a builder partner under the WaterSense program of the Environmental Protection Agency and who is—

“(A) the person who constructed the qualified new water efficient home, or

“(B) in the case of a qualified new energy efficient home which is a manufactured home, the manufactured home producer of such home.

“(2) **QUALIFIED NEW WATER EFFICIENT HOME.**—The term ‘qualified new water efficient home’ means a dwelling unit—

“(A) located in the United States,

“(B) the construction of which is substantially completed after the date of the enactment of this section, and

“(C) which is certified by the Environmental Protection Agency as complying with the Final Water-Efficient Single-Family New Home Specification issued by such Agency.

“(3) **CONSTRUCTION.**—The term ‘construction’ includes substantial reconstruction and rehabilitation.

“(4) **ACQUIRE.**—The term ‘acquire’ includes purchase.

“(c) **CERTIFICATION.**—

“(1) **METHOD OF CERTIFICATION.**—A certification described in subsection (b)(2)(C) shall be made in accordance with guidance prescribed by the Secretary, after consultation with the Administrator of the Environmental Protection Agency. Such guidance shall specify procedures and methods for calculating water and cost savings.

“(2) **FORM.**—Any certification described in subsection (b)(2)(C) shall be made in writing in a manner which specifies in readily verifiable fashion the water efficient components (including toilets, faucets, other plumbing fixtures and appliances, hot water delivery, landscape design, and irrigation systems) installed and their respective rated water efficiency performance.

“(d) **BASIS ADJUSTMENT.**—For purposes of this subtitle, if a credit is allowed under this section in connection with any expenditure for any property, the increase in the basis of such property which would (but for this subsection) result from such expenditure shall be reduced by the amount of the credit so determined.

“(e) **COORDINATION WITH OTHER CREDITS.**—Expenditures taken into account under section 45L, 47, or 48(a) shall not be taken into account under this section.

“(f) **REBATE PROGRAMS.**—The amount of the credit allowed under subsection (a) to an eligible contractor with respect to any qualified new water efficient home shall be reduced, but not below zero, by the amount of any reimbursement which such contractor receives under any Federal government pro-

gram for the construction of such home or for expenditures relating to such construction.

“(g) **TERMINATION.**—This section shall not apply to any qualified new water efficient home acquired after December 31, 2014.”

(b) **CREDIT TO BE PART OF GENERAL BUSINESS CREDIT.**—Section 38(b) of the Internal Revenue Code of 1986, as amended by this Act, is amended by striking “plus” at the end of paragraph (35), by striking the period at the end of paragraph (36) and inserting “, plus”, and by adding at the end the following new paragraph:

“(37) the new water efficient home credit determined under section 45R.”

(c) **CLERICAL AMENDMENT.**—The table of sections for subpart D of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by adding at the end the following new item:

“Sec. 45R. New water efficient home credit.”

(d) **EFFECTIVE DATE.**—The amendments made by this section shall apply to homes acquired after December 31, 2009.

### SEC. 4. WATER CONSERVATION BONDS.

(a) **IN GENERAL.**—Section 54D of the Internal Revenue Code of 1986 is amended—

(1) by striking “energy conservation bond” each place it appears in subsections (a), (b), and (d), and inserting “energy and water conservation bond”,

(2) by inserting “**AND WATER**” after “**QUALIFIED ENERGY**” in the heading,

(3) by striking “State or local government” in subsection (a)(2) and inserting “State, local government, or water district”,

(4) by striking “\$3,200,000,000” in subsection (d) and inserting “\$4,000,000,000, of which not less than 20 percent shall be used for qualified conservation purposes described in subsection (f)(1)(F)”, and

(5) by adding at the end of subsection (f)(1) the following new subparagraph:

“(F) Expenditures incurred for purposes of—

“(i) reducing water consumption by a public building or facility by not less than 30 percent,

“(ii) advanced water metering infrastructure, including the purchase, installation, and commissioning of advanced water meters and related software and infrastructure,

“(iii) investigation, design, or construction of a qualified groundwater remediation, desalination, or recycled water facility or system,

“(iv) increasing energy efficiency or the generation and use of renewable energy in the management, conveyance, or treatment of water, wastewater, or stormwater,

“(v) reducing water loss in a water distribution system, including training water system personnel, annual testing and calibration of meters, detecting and repairing leaks, and purchase and installation of related equipment, or

“(vi) establishing or improving a system for volumetric billing to enable utilities to base retail residential customer bills in whole or in part on the volume of metered water deliveries.”

(b) **EFFECTIVE DATE.**—The amendments made by this section shall take effect on the date of the enactment of this Act.

### SEC. 5. ARBITRAGE RULES NOT TO APPLY TO PREPAYMENTS FOR ELECTRICITY.

(a) **IN GENERAL.**—Subsection (b) of section 148 of the Internal Revenue Code of 1986 is amended by adding at the end the following new paragraph:

“(5) **SAFE HARBOR FOR PREPAID ELECTRICITY SUPPLY CONTRACTS.**—

“(A) **IN GENERAL.**—The term ‘investment-type property’ does not include a prepayment under a qualified electricity supply contract.

“(B) **QUALIFIED ELECTRICITY SUPPLY CONTRACT.**—

“(i) **IN GENERAL.**—For purposes of this paragraph, the term ‘qualified electricity supply contract’ means—

“(I) any contract entered into by a water or sewer utility to acquire electricity for the use of such utility in providing water or sewer services to its customers, if such contract provides that the provider of such electricity under the contract will use not less than 75 percent of the prepayment described in subparagraph (A) to acquire, construct, or improve a qualified renewable energy facility, and

“(II) any contract to acquire electricity which is not described in subclause (I) which the Secretary determines does not constitute property of the type intended to be described in paragraph (2)(D).

“(ii) **WATER OR SEWER UTILITY.**—The term ‘water or sewer utility’ means a utility which is a governmental unit or is owned by a governmental unit and which provides—

“(I) water for residential, commercial, irrigation, or industrial use, or

“(II) sewer services for residential, commercial, or industrial use,

to retail or wholesale customers in the service territory of such utility.

“(iii) **QUALIFIED RENEWABLE ENERGY FACILITY.**—The term ‘qualified renewable energy facility’ means a qualified facility within the meaning of section 45(d) (without regard to paragraphs (8) and (10) thereof, to the placed in service date of such facility, and to the person who owns such facility) which is located in the United States.

“(iv) **USE OF WATER OR SEWER UTILITY.**—For purposes of clause (i)(I), a contract shall be treated as providing electricity for the use of a water or sewer utility if the sum of—

“(I) the total number of kilowatt hours of electricity purchased under such contract and any other contracts for the purchase of electricity by such utility in effect on the date of the execution of such contract, plus

“(II) the amount of electricity expected to be generated by any generating facilities owned and used by such utility,

does not exceed by more than 10 percent the total kilowatt hours of electricity expected to be used by such utility during the term of such contract for the purpose of providing water or sewer services to its customers or for resale to other water or sewer utilities for their use (and not for resale to any entity that is not a water or sewer utility).

“(C) **OTHER RULES.**—Rules similar to the rules of subparagraphs (D)(ii), (G), and (I) of paragraph (4) shall apply for purposes of this paragraph.”

(b) **PRIVATE LOAN FINANCING TEST NOT TO APPLY TO PREPAYMENTS FOR ELECTRICITY.**—Paragraph (2) of section 141(c) of the Internal Revenue Code of 1986 is amended—

(1) by striking “or” at the end of subparagraph (B),

(2) by striking the period at the end of subparagraph (C) and inserting “, or”, and

(3) by adding at the end the following new subparagraph:

“(D) is a qualified electricity supply contract (as defined in section 148(b)(5)).”

(c) **EFFECTIVE DATE.**—The amendments made by this section shall apply to obligations issued after the date of the enactment of this Act.

By Mr. REID (for himself, Mrs. BOXER, and Mr. CARDIN):

S. 1712. A bill to promote water efficiency, conservation, and adaptation, and for other purposes; to the Committee on Environment and Public Works.

Mr. REID. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 1712

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

#### SECTION 1. SHORT TITLE.

This Act may be cited as the “Water Efficiency, Conservation, and Adaptation Act of 2009”.

#### SEC. 2. FINDINGS.

Congress finds that—

(1)(A) human-induced climate change is affecting the natural water cycle, decreasing precipitation levels in the West, especially the Southwest, and making droughts and floods more frequent and more intense;

(B) declining precipitation levels will severely impact water supplies in Southwestern States; and

(C) a sharp increase in the number of days with very heavy precipitation throughout the Northeast and the Midwest will stress aging water infrastructure;

(2) changes in the water cycle caused by climate disruptions will adversely affect water infrastructure, energy production and use, human health, transportation, agriculture, and ecosystems, while also aggravating water disputes across the United States;

(3)(A) the Colorado River, which supplies water for over 30,000,000 people, is experiencing the worst drought in over 100 years of recordkeeping; and

(B) the primary reservoirs of the Colorado River Basin and Lakes Mead and Powell have lost nearly half of the storage waters of the reservoirs and Lakes, and clean hydropower generated from Hoover Dam risks reduction if the extended drought persists;

(4) States and local governments and water utilities can begin to address the challenges described in this section by providing incentives for water efficiency and conservation, while also planning and investing in infrastructure to adapt to the impacts of climate change, particularly those impacts already affecting the United States;

(5) residential water demand can be reduced by 25 to 40 percent using existing, cost-effective technologies that also can reduce the water bills of consumers by hundreds of dollars per year; and

(6) water and energy use are inseparable activities, and supplying and treating water consumes around 4 percent of the electricity of the United States, and electricity makes up 75 percent of the cost of processing and delivering municipal water.

#### SEC. 3. DEFINITION OF ADMINISTRATOR.

In this Act, the term “Administrator” means the Administrator of the Environmental Protection Agency.

#### SEC. 4. WATERSENSE.

(a) IN GENERAL.—There is established within the Environmental Protection Agency a WaterSense program to identify and promote water efficient products, buildings, landscapes, facilities, processes, and services so as—

(1) to reduce water use;

(2) to reduce the strain on water, wastewater, and stormwater infrastructure;

(3) to conserve energy used to pump, heat, transport, and treat water; and

(4) to preserve water resources for future generations, through voluntary labeling of, or other forms of communications about, products, buildings, landscapes, facilities, processes, and services that meet the highest water efficiency and performance criteria.

(b) DUTIES.—The Administrator shall—

(1) establish—

(A) a WaterSense label to be used for certain items; and

(B) the procedure by which an item may be certified to display the WaterSense label;

(2) promote WaterSense-labeled products, buildings, landscapes, facilities, processes, and services in the market place as the preferred technologies and services for—

(A) reducing water use; and

(B) ensuring product and service performance;

(3) work to enhance public awareness of the WaterSense label through public outreach, education, and other means;

(4) preserve the integrity of the WaterSense label by—

(A) establishing and maintaining performance criteria so that products, buildings, landscapes, facilities, processes, and services labeled with the WaterSense label perform as well or better than less water-efficient counterparts;

(B) overseeing WaterSense certifications made by third parties;

(C) conducting reviews of the use of the WaterSense label in the marketplace and taking corrective action in any case in which misuse of the label is identified; and

(D) carrying out such other measures as the Administrator determines to be appropriate;

(5) regularly review and, if appropriate, update WaterSense criteria for categories of products, buildings, landscapes, facilities, processes, and services, at least once every 4 years;

(6) to the maximum extent practicable, regularly estimate and make available to the public the production and relative market shares of, and the savings of water, energy, and capital costs of water, wastewater, and stormwater infrastructure attributable to the use of WaterSense-labeled products, buildings, landscapes, facilities, processes, and services, at least annually;

(7) solicit comments from interested parties and the public prior to establishing or revising a WaterSense category, specification, installation criterion, or other criterion (or prior to effective dates for any such category, specification, installation criterion, or other criterion);

(8) provide reasonable notice to interested parties and the public of any changes (including effective dates), on the adoption of a new or revised category, specification, installation criterion, or other criterion, along with—

(A) an explanation of the changes; and

(B) as appropriate, responses to comments submitted by interested parties and the public;

(9) provide appropriate lead time (as determined by the Administrator) prior to the applicable effective date for a new or significant revision to a category, specification, installation criterion, or other criterion, taking into account the timing requirements of the manufacturing, marketing, training, and distribution process for the specific product, building and landscape, or service category addressed;

(10) identify and, if appropriate, implement other voluntary approaches in commercial, institutional, residential, industrial, and municipal sectors to encourage recycling and reuse technologies to improve water efficiency or lower water use; and

(11) if appropriate, apply the WaterSense label to water-using products that are labeled by the Energy Star program implemented by the Administrator and the Secretary of Energy.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section—

(1) \$7,500,000 for fiscal year 2010;

(2) \$10,000,000 for fiscal year 2011;

(3) \$20,000,000 for fiscal year 2012;

(4) \$50,000,000 for fiscal year 2013; and

(5) for each subsequent fiscal year, the applicable amount during the preceding fiscal year, as adjusted to reflect changes for the 12-month period ending the preceding November 30 in the Consumer Price Index for All Urban Consumers published by the Bureau of Labor Statistics of the Department of Labor.

#### SEC. 5. STATE RESIDENTIAL WATER EFFICIENCY AND CONSERVATION INCENTIVES PROGRAM.

(a) DEFINITIONS.—In this section:

(1) ELIGIBLE ENTITY.—The term “eligible entity” means a State government, local or county government, tribal government, wastewater or sewerage utility, municipal water authority, energy utility, water utility, or nonprofit organization that meets the requirements of subsection (b).

(2) INCENTIVE PROGRAM.—The term “incentive program” means a program for administering financial incentives for consumer purchase and installation of water-efficient products, buildings (including new water-efficient homes), landscapes, processes, or services described in subsection (b)(1).

(3) RESIDENTIAL WATER-EFFICIENT PRODUCT, BUILDING, LANDSCAPE, PROCESS, OR SERVICE.—

(A) IN GENERAL.—The term “residential water-efficient product, building, landscape, process, or service” means a product, building, landscape, process, or service for a residence or its landscape that is rated for water efficiency and performance—

(i) by the WaterSense program; or

(ii) if a WaterSense specification does not exist, by the Energy Star program or an incentive program approved by the Administrator.

(B) INCLUSIONS.—The term “residential water-efficient product, building, landscape, process, or service” includes—

(i) faucets;

(ii) irrigation technologies and services;

(iii) point-of-use water treatment devices;

(iv) reuse and recycling technologies;

(v) toilets;

(vi) clothes washers;

(vii) dishwashers;

(viii) showerheads;

(ix) xeriscaping and other landscape conversions that replace irrigated turf; and

(x) new water efficient homes certified under the WaterSense program.

(4) WATERSENSE PROGRAM.—The term “WaterSense program” means the program established by section 4.

(b) ELIGIBLE ENTITIES.—An entity shall be eligible to receive an allocation under subsection (c) if the entity—

(1) establishes (or has established) an incentive program to provide financial incentives to residential consumers for the purchase of residential water-efficient products, buildings, landscapes, processes, or services;

(2) submits an application for the allocation at such time, in such form, and containing such information as the Administrator may require; and

(3) provides assurances satisfactory to the Administrator that the entity will use the allocation to supplement, but not supplant, funds made available to carry out the incentive program.

(c) AMOUNT OF ALLOCATIONS.—For each fiscal year, the Administrator shall determine the amount to allocate to each eligible entity to carry out subsection (d), taking into consideration—

(1) the population served by the eligible entity during the most recent calendar year for which data are available;

(2) the targeted population of the incentive program of the eligible entity, such as general households, low-income households, or first-time homeowners, and the probable effectiveness of the incentive program for that population;

(3) for existing programs, the effectiveness of the program in encouraging the adoption of water-efficient products, buildings, landscapes, facilities, processes, and services;

(4) any allocation to the eligible entity for a preceding fiscal year that remains unused and

(5) the per capita water demand of the population served by the eligible entity during the most recent calendar year for which data are available and the accessibility of water supplies to the eligible entity.

(d) **USE OF ALLOCATED FUNDS.**—Funds allocated to an eligible entity under subsection (c) may be used to pay up to 50 percent of the cost of establishing and carrying out an incentive program.

(e) **FIXTURE RECYCLING.**—Eligible entities are encouraged to promote or implement fixture recycling programs to manage the disposal of older fixtures replaced due to the incentive program under this section.

(f) **ISSUANCE OF INCENTIVES.**—

(1) **IN GENERAL.**—Financial incentives may be provided to residential consumers that meet the requirements of the applicable incentive program.

(2) **MANNER OF ISSUANCE.**—An eligible entity may—

(A) issue all financial incentives directly to residential consumers; or

(B) with approval of the Administrator, delegate all or part of financial incentive administration to other organizations, including local governments, municipal water authorities, water utilities, and nonprofit organizations.

(3) **AMOUNT.**—The amount of a financial incentive shall be determined by the eligible entity, taking into consideration—

(A) the amount of any Federal or State tax incentive available for the purchase of the residential water-efficient product or service;

(B) the amount necessary to change consumer behavior to purchase water-efficient products and services; and

(C) the consumer expenditures for onsite preparation, assembly, and original installation of the product.

(g) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated to the Administrator to carry out this section—

(1) \$100,000,000 for fiscal year 2010;

(2) \$150,000,000 for fiscal year 2011;

(3) \$200,000,000 for fiscal year 2012;

(4) \$150,000,000 for fiscal year 2013;

(5) \$100,000,000 for fiscal year 2014; and

(6) for each subsequent fiscal year, the applicable amount during the preceding fiscal year, as adjusted to reflect changes for the 12-month period ending the preceding November 30 in the Consumer Price Index for All Urban Consumers published by the Bureau of Labor Statistics of the Department of Labor.

## **SEC. 6. BLUE BANK FOR WATER SYSTEM MITIGATION AND ADAPTATION.**

(a) **DEFINITIONS.**—In this section:

(1) **ABRUPT CLIMATE CHANGE.**—The term “abrupt climate change” means a large-scale change in the climate system that—

(A) takes place over a few decades or less;

(B) persists (or is anticipated to persist) for at least a few decades; and

(C) causes substantial disruptions in human and natural systems.

(2) **OWNER OR OPERATOR.**—

(A) **IN GENERAL.**—The term “owner or operator” means a person (including a regional, State, local, municipal, or private entity) that owns or operates a water system.

(B) **INCLUSION.**—The term “owner or operator” includes a non-Federal entity that has operational responsibilities for a federally owned water system.

(3) **WATER SYSTEM.**—The term “water system” means—

(A) a community water system (as defined in section 1401 of the Safe Drinking Water Act (42 U.S.C. 300f));

(B) a publicly owned treatment works (as defined in section 212 of the Federal Water Pollution Control Act (33 U.S.C. 1292)), including a municipal separate storm sewer system;

(C) a decentralized wastewater treatment system for domestic sewage;

(D) a groundwater storage and replenishment system; or

(E) a system for transport and delivery of water for irrigation or conservation.

(b) **GRANTS.**—Beginning in fiscal year 2010, the Administrator shall make grants to owners or operators of water systems to address any ongoing or forecasted (based on the best available research and data) climate-related impact on the water quality or quantity of a region of the United States, for the purposes of mitigating or adapting to the impacts of climate change.

(c) **ELIGIBLE USES.**—In carrying out this section, the Administrator shall make grants to assist in the planning, design, construction, implementation, or maintenance of any program or project to increase the resilience of a water system to climate change by—

(1) conserving water or enhancing water use efficiency, including through the use of water metering to measure the effectiveness of a water efficiency program;

(2) modifying or relocating existing water system infrastructure made or projected to be made inoperable by climate change impacts;

(3) preserving or improving water quality, including through measures to manage, reduce, treat, or reuse municipal stormwater, wastewater, or drinking water;

(4) investigating, designing, or constructing groundwater remediation, recycled water, or desalination facilities or systems;

(5) enhancing water management by increasing watershed preservation and protection, such as through the use of natural or engineered green infrastructure in the management, conveyance, or treatment of water, wastewater, or stormwater;

(6) enhancing energy efficiency or the use and generation of renewable energy in the management, conveyance, or treatment of water, wastewater, or stormwater;

(7) supporting the adoption and use of advanced water treatment, water supply management (such as reservoir reoperation), or water demand management technologies, projects, or processes (such as water reuse and recycling or adaptive conservation pricing) that maintain or increase water supply or improve water quality;

(8) modifying or replacing existing systems or constructing new systems for existing communities or land currently in agricultural production to improve water availability, storage, or conveyance in a manner that—

(A) promotes more efficient use of available water supplies; and

(B) does not further exacerbate stresses on ecosystems;

(9) supporting practices and projects, such as improved irrigation systems, water banking and other forms of water transactions, groundwater recharge, stormwater capture, and reuse or recycling of drainage water, to improve water quality or promote more efficient water use, including on land currently in agricultural production;

(10) conducting and completing studies or assessments to project how climate change may impact the future operations and sustainability of water systems; or

(11) developing and implementing mitigation measures to rapidly address impacts on water systems most susceptible to abrupt climate change, including those in the Colorado River Basin and coastal regions at risk from rising sea levels.

(d) **APPLICATION.**—To be eligible to receive a grant from the Administrator under subsection (b), the owner or operator of a water system shall submit to the Administrator an application that—

(1) includes a proposal of the program, strategy, or infrastructure improvement to be planned, designed, constructed, implemented, or maintained by the water system;

(2) cites the best available research or data that demonstrates—

(A) the risk to the water resources or infrastructure of the water system as a result of ongoing or forecasted changes to the hydrological system brought about by factors arising from climate change, including rising sea levels and changes in precipitation levels; and

(B) how the proposed program, strategy, or infrastructure improvement would perform under the anticipated climate conditions;

(3) explains how the proposed program, strategy, or infrastructure improvement is expected to enhance the resiliency of the water system, including source water protection for community water systems, to these risks or reduce the direct or indirect greenhouse gas emissions of the water system; and

(4) demonstrates that the program, strategy, or infrastructure improvement is—

(A) consistent with any approved State and tribal climate adaptation plan; and

(B) not inconsistent with any approved natural resources plan.

(e) **COMPETITIVE PROCESS.**—

(1) **IN GENERAL.**—Each calendar year, the Administrator shall conduct a competitive process to select and fund applications under this section.

(2) **PRIORITY REQUIREMENTS AND WEIGHTING.**—In carrying out the process, the Administrator shall—

(A) prioritize funding of applications that are submitted by the owners or operators of water systems that are, based on the best available research and data, at the greatest and most immediate risk of facing significant climate-related negative impacts on water quality or quantity;

(B) in selecting among the priority applications determined under subparagraph (A), ensure that the final list of applications funded for each year includes a substantial number that, to the maximum extent practicable, includes each eligible use described in subsection (c);

(C) solicit applications from water systems that are—

(i) located in all regions of the United States; and

(ii) facing varying risks as a result of climate change; and

(D) provide for solicitation and consideration of public input in the development of criteria used in evaluating applications.

(f) **COST SHARING.**—

(1) **FEDERAL SHARE.**—The Federal share of the cost of any program, strategy, or infrastructure improvement that is the subject of a grant awarded by the Administrator to a water system under subsection (b) shall not exceed 50 percent of the cost of the program, strategy, and infrastructure improvement.

(2) **CALCULATION OF NON-FEDERAL SHARE.**—In calculating the non-Federal share of the cost of a program, strategy, or infrastructure improvement proposed by a water system through an application submitted by the

water system under subsection (d), the Administrator shall—

(A) include the value of any in-kind services that are integral to the completion of the program, strategy, or infrastructure improvement, as determined by the Administrator; and

(B) not include any other amount that the water system receives from a Federal agency.

(g) LABOR STANDARDS.—

(1) IN GENERAL.—All laborers and mechanics employed on infrastructure improvements funded directly by or assisted in whole or in part by this section shall be paid wages at rates not less than those prevailing for the same type of work on similar construction in the immediate locality, as determined by the Secretary of Labor in accordance with subchapter IV of chapter 31 of part A of subtitle II of title 40, United States Code.

(2) AUTHORITY AND FUNCTIONS.—With respect to the labor standards in this subsection, the Secretary of Labor shall have the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (64 Stat. 1267; 5 U.S.C. App.) and section 3145 of title 40, United States Code.

(h) REGULATIONS.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Administrator shall promulgate final regulations to carry out this section.

(2) SPECIAL RULE FOR THE CONSTRUCTION OF TREATMENT WORKS.—In carrying out this subsection, the Administrator shall incorporate all relevant and appropriate requirements of title VI of the Federal Water Pollution Control Act (33 U.S.C. 1381 et seq.) applicable to the construction of treatment works that are carried out under this section.

(i) REPORT TO CONGRESS.—Not later than 3 years after the date of enactment of this Act, and every 3 years thereafter, the Administrator shall submit to the Congress a report on progress in implementing this section, including information on project applications received and funded annually.

(j) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as are necessary.

By Mr. REID (for himself, Mr. BAUCUS, Mr. HATCH, Mr. TESTER, and Mr. UDALL of New Mexico):

S. 1713. A bill to establish loan guarantee programs to develop biochar technology using excess plant biomass, to establish biochar demonstration projects on public land, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. REID. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 1713

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

#### SECTION 1. SHORT TITLE.

This Act may be cited as the “Water Efficiency via Carbon Harvesting and Restoration (WECHAR) Act of 2009”.

#### SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds that—

(1) numerous expert reports have brought attention to the negative impacts caused by invasive weed species, including the consumption of water in areas with diminishing supplies;

(2) salt cedar, or *Tamarix* species, a noxious and invasive plant commonly found on public land can consume 200 gallons of water per plant each day;

(3) salt cedar now covers as much as 1,000,000 acres of floodplains, riparian acres, wetland, and lake margins in the Western United States;

(4) minimizing the impact of and eradicating invasive species that wrest water from delicate watersheds is in the best interest of the United States;

(5) as drought conditions worsen and legal requirements relating to water supply accelerate water shortages, innovative approaches are needed to address the increasing demand for water;

(6) pine bark beetle has killed thousands of acres of standing forests in the Western United States, creating a hazardous buildup of dead tree biomass that is a serious fire threat to those and surrounding areas;

(7) biochar technology would result in a more cost-effective, environmentally beneficial, and successful approach to combating invasive weeds and removing excess biomass and plant waste from public land;

(8) invasive weeds and excess biomass on public land can serve as feedstock for biochar and alternative fuel production;

(9) it is in the best interest of the United States to conduct a comprehensive and thorough research, development, and demonstration program on biochar and related bioenergy so as to better understand how to use excess biomass available on public land; and

(10) biochar production and use systems have been shown to have many ancillary beneficial environmental impacts.

(b) PURPOSES.—The purposes of this Act are—

(1) to restore the natural hydrology of Western landscapes by removing water-intensive invasive plant species;

(2) to reduce dangerous forest and rangeland fuel loads;

(3) to develop technologies to convert undesirable invasive plant species to useful materials;

(4) to develop markets for those materials; and

(5) to provide technologies to land managers to continue those processes into the future.

#### SEC. 3. DEFINITIONS.

In this Act:

(1) BIOCHAR.—The term “biochar” means charcoal or black carbon derived from organic matter through pyrolysis.

(2) BIOENERGY.—The term “bioenergy” means hydrocarbons derived from organic matter through pyrolysis, including bio-oil, syngas, or thermal energy.

(3) EXCESS BIOMASS.—

(A) IN GENERAL.—The term “excess biomass” means any plant matter targeted for removal from public land to promote ecosystem health.

(B) INCLUSIONS.—The term “excess biomass” includes—

(i) trees or tree waste on public land;

(ii) wood and wood wastes and residues; and

(iii) weedy plants and grasses (including aquatic, noxious, or invasive plants).

(4) FEEDSTOCK.—The term “feedstock” means excess biomass in the form of plant matter or materials that serves as the raw material for the production of biochar and bioenergy.

(5) INVASIVE PLANT SPECIES.—The term “invasive plant species” means a species—

(A) that is nonnative to a specified ecosystem; and

(B) the introduction to an ecosystem of which causes, or may cause, harm to—

(i) the economy;

(ii) the environment;

(iii) water resources; or

(iv) human, animal, or plant health.

(6) SECRETARY CONCERNED.—The term “Secretary concerned” means the Secretary of the Interior or the Secretary of Agriculture, as appropriate.

#### SEC. 4. RESOURCE ASSESSMENT.

(a) IN GENERAL.—The Director of the United States Geological Survey shall conduct resources assessments that collect and synthesize interagency and State data to quantify—

(1) invasive plant species and excess biomass in the form of dangerous fuel loads on public land that can be used for feedstock;

(2) estimated carbon content in that feedstock;

(3) estimated potential biochar and bioenergy producible from that feedstock; and

(4) potential water savings resulting from removal of invasive plant species and excess biomass on public land, by watershed.

(b) REPORT.—Not later than 1 year after the date of enactment of this Act and biennially thereafter, the Director of United States Geological Survey shall submit to Congress a report that describes the results of each resource assessment conducted under subsection (a).

#### SEC. 5. TECHNOLOGY RESEARCH.

(a) DEVELOPMENT OF MOBILE BIOCHAR PRODUCTION UNITS.—Not later than 1 year after the date of enactment of this Act and in accordance with subsection (c), the Secretary of the Interior shall establish a program to provide guarantees of loans by private institutions—

(1) to develop and optimize commercially and technologically viable biochar production units that—

(A) are designed to use woody invasive plant species and excess biomass feedstock such as tamarisk, pinyon pine, and juniper;

(B) produce net negative carbon emissions relative to natural decomposition;

(C) are self-contained on a portable platform suitable for deployment to remote locations and on unpaved roads; and

(D) can capture biochar and bioenergy produced for immediate energy needs or transport to market; and

(2) to produce, not later than 2 years after the date of securing a guaranteed loan under this section for the purposes described in section 7(a)(2), 4 biochar production units for deployment to remote landscapes, of which—

(A) 2 shall be dedicated primarily to contract work with the Bureau of Land Management; and

(B) 2 shall be dedicated primarily to contract work with the National Park Service.

(b) DEVELOPMENT OF FIXED BIOCHAR PRODUCTION UNITS.—Not later than 1 year after the date of enactment of this Act and in accordance with subsection (c), the Secretary of Agriculture shall establish a program to provide guarantees of loans by private institutions—

(1) to develop and optimize commercially and technologically viable biochar production units that—

(A) while not necessarily self contained, can be disassembled, moved, and reassembled to be operational on a new site within 30 days, so as to support fuels reduction work;

(B) are designed to use excess biomass feedstock, such as trees killed by bark beetle infestations;

(C) produce net negative carbon emissions relative to natural decomposition;

(D) can capture biochar and bioenergy produced for immediate energy needs or transport to market; and

(2) to produce, not later than 2 years after the date of securing a guaranteed loan under

this section for the purposes described in section 7(a)(3), 2 biochar production units for deployment to remote landscapes.

(c) **GUARANTEED LOAN PROGRAM.**—

(1) **IN GENERAL.**—The Secretary concerned may provide loan guarantees under this section to an applicant if the biochar production units produced by the applicant will be dedicated primarily to contract restoration work with the Bureau of Land Management, National Park Service, or Forest Service, using—

(A) pinyon pine and juniper feedstock in the Great Basin;

(B) tamarisk feedstock in the Mojave Desert; or

(C) excess biomass feedstock, such as trees killed by bark beetle infestations in the Intermountain West.

(2) **CRITERIA.**—In selecting recipients of loan guarantees from among applicants, the Secretary concerned shall give preference to proposals that, as determined by the Secretary concerned—

(A) meet all applicable Federal and State permitting requirements;

(B) are most likely to be successful; and

(C) are located in local markets that have the greatest need for the biochar production units due to—

(i) identified high-priority landscape restoration needs;

(ii) availability of sufficient quantities of feedstocks described in subsection (b); or

(iii) a high level of demand for biochar or other commercial byproducts of the biochar production units.

(3) **MATURITY.**—A loan guaranteed under this section shall have a maturity of not more than 20 years.

(4) **TERMS AND CONDITIONS.**—The loan agreement for a loan guaranteed under this section shall provide that no provision of the loan agreement may be amended or waived without the consent of the Secretary.

(5) **GUARANTEE FEE.**—The recipient of a loan guarantee under this section shall pay to the Secretary concerned a guarantee fee in an amount determined by the Secretary concerned to be sufficient to cover the administrative costs of the Secretary concerned relating to the loan guarantee.

(6) **FULL FAITH AND CREDIT.**—

(A) **IN GENERAL.**—The full faith and credit of the United States is pledged to the payment of all guarantees made by the Secretary concerned under this section.

(B) **EVIDENCE.**—Any guarantee made by the Secretary concerned under this section shall be conclusive evidence of the eligibility of the loan for the guarantee with respect to principal and interest.

(C) **VALIDITY.**—The validity of any guarantee made by the Secretary concerned under this section shall be incontestable in the hands of a holder of the guaranteed loan.

(7) **ANNUAL REPORTS.**—Until the date on which each guaranteed loan under this section has been repaid in full, each year the Secretary concerned shall submit to Congress a report on the activities of the Secretary concerned under this section during the preceding year.

**SEC. 6. EXISTING TECHNOLOGY.**

(a) **IN GENERAL.**—The Secretary of the Interior and the Secretary of Agriculture shall each establish a program to provide guarantees of loans by private institutions for the construction or acquisition of facilities for the production of biochar.

(b) **REQUIREMENT.**—The Secretary concerned may provide a loan guarantee under this section to an applicant if facilities constructed or acquired by the applicant will be dedicated primarily to contract restoration work with the Bureau of Land Management, National Park Service, or Forest Service, using—

(1) pinyon pine and juniper feedstock in the Great Basin;

(2) tamarisk feedstock in the Mojave Desert; or

(3) excess biomass feedstock, such as trees killed by bark beetle infestations in the Intermountain West.

(c) **CRITERIA.**—In selecting recipients of loan guarantees from among applicants, the Secretary concerned shall give preference to proposals that, as determined by the Secretary concerned—

(1) meet all applicable Federal and State permitting requirements;

(2) are most likely to be successful; and

(3) are located in local markets that have the greatest need for the facility due to—

(A) identified high-priority landscape restoration needs;

(B) availability of sufficient quantities of feedstocks described in subsection (b); or

(C) a high level of demand for biochar or other commercial byproducts of the facility.

(d) **MATURITY.**—A loan guaranteed under this section shall have a maturity of not more than 20 years.

(e) **TERMS AND CONDITIONS.**—The loan agreement for a loan guaranteed under this section shall provide that no provision of the loan agreement may be amended or waived without the consent of the Secretary concerned.

(f) **GUARANTEE FEE.**—The recipient of a loan guarantee under this section shall pay the Secretary concerned a guarantee fee in an amount determined by the Secretary concerned to be sufficient to cover the administrative costs of the Secretary concerned relating to the loan guarantee.

(g) **FULL FAITH AND CREDIT.**—

(1) **IN GENERAL.**—The full faith and credit of the United States is pledged to the payment of all guarantees made by the Secretary concerned under this section.

(2) **EVIDENCE.**—Any guarantee made by the Secretary concerned under this section shall be conclusive evidence of the eligibility of the loan for the guarantee with respect to principal and interest.

(3) **VALIDITY.**—The validity of any guarantee made by the Secretary concerned under this section shall be incontestable in the hands of a holder of the guaranteed loan.

(h) **ANNUAL REPORTS.**—Until the date on which each guaranteed loan under this section has been repaid in full, each year the Secretary concerned shall submit to Congress a report on the activities of the Secretary concerned under this section during the preceding year.

**SEC. 7. DEPLOYMENT.**

(a) **NEW TECHNOLOGY.**—

(1) **IN GENERAL.**—Not later than 2 years after the date of enactment of this Act, the Secretary of the Interior and the Secretary of Agriculture shall initiate 3-year programs to employ the biochar production units provided under section 5 in pilot applications in various climates and ecosystems of the United States.

(2) **MOBILE UNITS.**—In the case of biochar production units developed or optimized under section 5(a)—

(A) the Director of the National Park Service shall carry out initial programs using invasive tamarisk in the Mojave Desert as feedstock; and

(B) the Director of the Bureau of Land Management shall carry out initial programs using excess pinyon pine and juniper biomass in the Great Basin as feedstock.

(3) **FIXED UNITS.**—In the case of biochar production units developed or optimized under section 5(b), the Chief of the Forest Service shall carry out the initial program using bark beetle-killed trees in the Intermountain West.

(b) **EXISTING TECHNOLOGY.**—

(1) **IN GENERAL.**—Not later than 180 days after enactment of this Act, the Secretary of the Interior and the Secretary of Agriculture shall prepare plans for carrying out 3-year landscape restoration programs in various climates and ecosystems of the United States to employ facilities constructed or acquired under section 6.

(2) **REQUIREMENTS.**—In carrying out the landscape restoration programs described in paragraph (1), the Secretary of the Interior and the Secretary of Agriculture shall carry out programs using invasive tamarisk in the Mojave Desert, excess pinyon pine and juniper biomass in the Great Basin, and bark beetle-killed trees in the Intermountain West.

**SEC. 8. APPLICATION AND MARKET RESEARCH.**

(a) **ATTRIBUTES.**—Not later than 1 year after the date of enactment of this Act, the Secretary of Agriculture shall provide competitive grants to conduct research and analysis that identifies—

(1) attributes and composition profiles of biochar produced from different feedstocks for use as soil amendments; and

(2) attributes and composition profiles of bioenergy produced from different feedstocks for use as fuel for transportation, heating, or other uses identified in subsection (b)(1).

(b) **MARKET DEVELOPMENT.**—Not later than 1 year after the date of enactment of this Act, the Secretary of Agriculture, acting through the Director of the National Institute of Food and Agriculture, the Administrator of the Agricultural Research Service, and the Administrator of the Agricultural Marketing Service shall provide competitive grants to conduct research and analysis that—

(1) identifies potential uses and markets for biochar and bioenergy; and

(2) in the case of economic and life-cycle issues, analyzes—

(A) the full production costs versus the economic benefits of biochar production systems;

(B) the impact of the production and use of biochar, including the performance of biochar in carbon sequestration programs; and

(C) the availability of feedstocks and the efficiency of using those feedstock for biochar production as compared to other biofuel-production systems.

(c) **ENVIRONMENTAL REVIEW.**—Not later than 1 year after the date of enactment of this Act, the Secretary of Agriculture shall provide competitive grants to conduct research and analysis relating to—

(1) the environmental benefits of biochar production and use, including—

(A) the water savings resulting from reducing populations of invasive or noxious plant species;

(B) the potential of biochar production systems—

(i) to reduce fertilizer use, nutrient leaching, and run-off; and

(ii) to reduce water pollution from feedlot runoff by capturing ammonia; and

(C) the reduction in greenhouse gas emissions resulting from the production and use of related bioenergy;

(2) the potential environmental impacts of biochar and bioenergy use, including—

(A) the potential toxicity and other adverse ecosystem effects resulting from biochar production or use of different biochars, as identified under subsection (a)(1);

(B) the characterization of combustion products of bioenergy, as identified under subsection (a)(2), and the effects of those combustion products on air and water quality; and

(C) impacts on human health and safety.

(d) DEVELOPMENT OF BIOCHAR IN LANDSCAPE RESTORATION.—Not later than 1 year after the date of enactment of this Act, the Secretary of Agriculture, acting through the Director of the National Institute of Food and Agriculture and the Administrator of the Agricultural Research Service, shall provide competitive grants to research and analyze—

(1) the potential uses of biochar in landscape restoration in different ecosystems and soil types;

(2) the relative benefits and potential adverse effects of use of different biochars, as identified under subsection (a)(1) in different western ecosystems and soil types; and

(3) the safety and efficacy of different methods of application.

#### SEC. 9. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out sections 4 through 8, including for the cost of grants and loan guarantees under those sections, such sums as are necessary for each of fiscal years 2010 through 2016.

By Mr. DURBIN:

S. 1714. A bill to authorize grants for the creation, update, or adaption of open textbooks, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. DURBIN. Mr. President, technology has transformed the way we work, the way we entertain ourselves, and the way we understand the world around us. But one area of our lives that has been more resistant to technological change has been the way we educate our children. And yet I see tremendous potential in technology to improve access to education and decrease its often high costs. One example of this is open educational resources. Today, I am introducing a bill that will provide a short-term federal investment in the development of one type of open educational resource—college textbooks. I believe this investment will improve learning in our college classrooms and help bring down the cost of college for students.

The growth of the Internet has enabled the creation and sharing of open content. A teacher or professor in Illinois can create a lecture, a lesson, a book, or an entire curriculum and share it online. A teacher across the country or even across the world can access that educational material, adapt it, and use it in his or her classroom. More and more often educators are utilizing technology in this way to improve student learning.

The President recognizes the potential of this new technology. He has proposed a significant new Federal investment in the creation of online open-source courses for community colleges. These courses will be made freely available online and widely distributed so that all colleges can make use of them. I believe this initiative will help make higher education more accessible for students, especially non-traditional students or students living in rural areas far away from brick-and-mortar institutions. Because the courses will be available for free, the initiative will also help bring down the high cost of a college education for students struggling to pay.

I think we can go even further. The high cost of textbooks continues to be a barrier for many students struggling to pay for college. The College Board reported that for the 2007 to 2008 school year, students spent an estimated \$805 to \$1,229 on books and supplies. A little over a year ago, the Higher Education Opportunity Act was signed into law. That law includes provisions that I authored to increase transparency in college textbook pricing for professors and students. I hope that new law will help decrease the high cost of textbooks when these provisions are enacted next year, but there is more that the Federal Government can do to provide cheap alternatives to professors and students.

The bill I am introducing today, the Open College Textbook Act, will create a grant program for the creation of freely-available, online open college textbooks. Making high-quality open textbooks freely available to the general public would significantly lower college textbook costs. Under my bill, the Secretary of Education would award grants to colleges, professors, nonprofit organizations or for-profit companies to create introductory-level college textbooks. Once produced, these books would be posted on an easily-accessible website and made available to students, professors, and the public for free. The result would be a set of high-quality college textbooks that could be adopted in any introductory course at any college in the country. This would be a limited investment of Federal grant funding over just a few years, not a permanent federal funding stream. The choice would ultimately still be the professor's. Each professor could choose whether to assign the open textbook to his class, but I hope that he would seriously consider this high-quality, free online option that would save his students \$150 or \$200 each at the college bookstore.

Along with the clear cost benefits, open textbooks can also improve teaching and learning. The content of an open textbook can be adapted, supplemented, and personalized by professors for their course. Instead of framing a course around a textbook, a professor can modify an open textbook to fit the needs of a particular course or group of students. When professors take advantage of the flexibility and adaptability of open textbooks, student learning improves.

The use of Federal funding for textbooks and curricula is not new. For years, the National Science Foundation has been awarding grants to professors for research into the improvement of learning in the classroom. Sometimes these grants have resulted in the creation of textbooks, which the author can then license for profit to a commercial publisher. I believe textbooks created with Federal funding should be made available for free so that all students and professors can benefit from our investment. This bill would also require that all future Fed-

eral grants that lead to the creation of a textbook or curriculum for use in the classroom be licensed openly and made freely available to all educators for their use.

Over the past decade, I have watched textbook publishers use technology to drive up the cost of textbooks through unnecessary online supplements and CD-ROMs. It is time that we use the potential of technology to improve college access, learning, and affordability for all students. I believe the Open College Textbook Act that I am introducing today will accomplish that goal.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 1714

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

#### SECTION 1. SHORT TITLE.

This Act may be cited as the “Open College Textbook Act of 2009”.

#### SEC. 2. FINDINGS.

Congress finds the following:

(1) The growth of the Internet has enabled the creation and sharing of open content, including open educational resources.

(2) The President has proposed a new, significant Federal investment in the creation of online open-source courses for community colleges that will make learning more accessible, adaptable, and affordable for students.

(3) The President has challenged the United States with a goal of having the highest college graduation rate in the world by 2020.

(4) More than 80 percent of the 23,000,000 jobs that will be created in the next 10 years will require postsecondary education, but only 36 percent of all 18- to 24-year olds are currently enrolled in postsecondary education.

(5) The high cost of college textbooks continues to be a barrier for many students in achieving higher education, and according to the Advisory Committee on Student Financial Assistance, 200,000 qualified students fail to enroll in college each year due to cost.

(6) The College Board reported that for the 2007–2008 academic year an average student spent an estimated \$805 to \$1,229 on college books and supplies.

(7) Making high quality open textbooks freely available to the general public could significantly lower college textbook costs and increase accessibility to such education materials.

(8) Open textbooks can improve learning and teaching by creating course materials that are more flexible, adaptable, and accessible through the use of technology.

#### SEC. 3. DEFINITIONS.

In this Act:

(1) DIRECTOR.—The term “Director” means the Director of the National Science Foundation.

(2) INSTITUTION OF HIGHER EDUCATION.—The term “institution of higher education” has the meaning given the term in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001).

(3) OPEN LICENSE.—The term “open license” means an irrevocable intellectual property license that grants the public the right to access, customize, and distribute a copyrighted material.

(4) OPEN TEXTBOOK.—The term “open textbook” means a textbook or set of course materials in electronic format designed for use



in a college course at an institution of higher education that is licensed under an open license.

(5) SECRETARY.—The term “Secretary” means the Secretary of Education.

#### SEC. 4. GRANT PROGRAM.

(a) GRANTS AUTHORIZED.—From the amounts appropriated under subsection (i), the Secretary is authorized to award grants, on a competitive basis, to eligible entities to carry out the activities described in this section, including creating, updating, or adapting open textbooks. The Secretary shall award grants in a manner that will result in the creation of a comprehensive slate of high quality course materials for introductory courses in a variety of subject areas.

(b) ELIGIBLE ENTITY.—In this section, the term “eligible entity” means—

(1) an institution of higher education;

(2) a professor or group of professors at an institution of higher education; or

(3) a nonprofit or for-profit organization that produces open textbooks.

(c) DURATION.—Grants awarded under this section shall be 1 year in duration.

(d) APPLICATIONS.—

(1) IN GENERAL.—Each eligible entity desiring a grant under this section shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may reasonably require.

(2) CONTENTS.—Each application submitted under paragraph (1) shall include a description of the project to be completed with grant funds and—

(A) a plan for quality review and review of accuracy of content;

(B) a plan for access to ensure the widest possible availability of the digital version of the open textbook;

(C) a plan for distribution and adoption of the open textbook to ensure the widest possible adoption of the open textbook in postsecondary courses, including, where applicable, a marketing plan or a plan to partner with for-profit or nonprofit organizations to assist in marketing and distribution; and

(D) a plan for tracking and reporting formal adoptions of the open textbook within postsecondary institutions, including an estimate of the number of students impacted by the adoptions.

(e) SPECIAL CONSIDERATION.—In awarding grants under this section, the Secretary shall give special consideration to applications that demonstrate the greatest potential to produce—

(1) the highest quality and most marketable open textbooks;

(2) open textbooks that correspond to the highest enrollment courses at institutions of higher education;

(3) open textbooks that are easily utilized by faculty members at institutions of higher education; and

(4) open textbooks created in partnership with for-profit or nonprofit organizations to assist in marketing and distribution.

(f) USES OF GRANTS.—

(1) OPEN TEXTBOOKS.—An eligible entity that receives a grant under this section shall—

(A) create a new open textbook for use in postsecondary coursework;

(B) update an open textbook for use in postsecondary coursework; or

(C) adapt a textbook into an open format for use in postsecondary coursework.

(2) LICENSE.—An open textbook created, updated, or adapted under paragraph (1) shall be licensed through an open license.

(3) ACCESSIBILITY.—The full and complete digital content of each open textbook created, updated, or adapted under paragraph (1) shall be—

(A) posted on an easily accessible and interoperable website, which site shall be identified to the Secretary by the eligible entity; and

(B) made available free of charge to, and may be downloaded, redistributed, changed, revised, or otherwise altered by, any member of the general public.

(g) REVIEW PROCESS.—The Secretary shall develop a peer review and evaluation process in consultation with the Director to ensure that open textbooks created, updated, or adapted under this section are of the highest quality, accurate in content, and meet or exceed market quality and accessibility standards.

(h) REPORT.—Upon an eligible entity's completion of a project supported under this section, the eligible entity shall prepare and submit a report to the Secretary regarding all project costs, including the value of any volunteer labor and institutional capital used for the project.

(i) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated \$15,000,000 to carry out this section for fiscal year 2010 and such sums as are necessary for each of the 5 succeeding fiscal years.

#### SEC. 5. LICENSING MATERIALS WITH A FEDERAL CONNECTION.

(a) IN GENERAL.—Notwithstanding any other provision of law, educational materials such as curricula and textbooks created through grants distributed by Federal agencies, including the National Science Foundation, for use in elementary, secondary, or postsecondary courses shall be licensed under an open license.

(b) ACCESSIBILITY.—The full and complete digital content of each of the materials created as described in subsection (a) shall be—

(1) posted on an easily accessible and interoperable website, which site shall be identified to the Secretary by the grant recipient; and

(2) made available free of charge to, and may be downloaded, redistributed, changed, revised, or otherwise altered by, any member of the general public.

#### SEC. 6. SENSE OF CONGRESS.

It is the sense of Congress that institutions of higher education should encourage the consideration of open textbooks by professors within the generally accepted principles of academic freedom that established the right and responsibility of faculty members, individually and collectively, to select course materials that are pedagogically most appropriate for their classes.

#### SEC. 7. REPORT TO CONGRESS.

Not later than September 30, 2015, the Secretary shall prepare and submit a report to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Education and Labor of the House of Representatives detailing—

(1) the open textbooks created, updated, or adapted under this Act;

(2) the adoption of such open textbooks; and

(3) the savings generated for students, States, and the Federal Government through the use of open textbooks.

#### SUBMITTED RESOLUTIONS

#### SENATE RESOLUTION 285—SUPPORTING THE GOALS AND IDEALS OF NATIONAL CYBERSECURITY AWARENESS MONTH AND RAISING AWARENESS AND ENHANCING THE STATE OF CYBERSECURITY IN THE UNITED STATES

Mrs. FEINSTEIN (for herself, Mr. ROCKEFELLER, Mrs. GILLIBRAND, Mr. CARPER, Ms. MIKULSKI, Mr. LIEBERMAN, Ms. COLLINS, Mr. REID, Mr. LEVIN, Mr. BENNETT, Ms. SNOWE, Ms. LANDRIEU, Mr. HATCH, Mr. BAYH, and Mr. VOINOVICH) submitted the following resolution; which was referred to the Committee on Commerce, Science, and Transportation:

S. RES. 285

Whereas the use of the Internet in the United States, to communicate, conduct business, or generate commerce that benefits the overall United States economy, is ubiquitous;

Whereas many people use the Internet in the United States to communicate with family and friends, manage finances and pay bills, access educational opportunities, shop at home, participate in online entertainment and games, and stay informed of news and current events;

Whereas United States small businesses, which employ a significant fraction of the private workforce, increasingly rely on the Internet to manage their businesses, expand their customer reach, and enhance the management of their supply chain;

Whereas nearly all public schools in the United States have Internet access to enhance children's education, with a significant percentage of instructional rooms connected to the Internet to enhance children's education by providing access to educational online content and encouraging self-initiative to discover research resources;

Whereas the number of children who connect to the Internet continues to rise, and teaching children of all ages to become good cyber-citizens through safe, secure, and ethical online behaviors and practices is essential to protect their computer systems and potentially their physical safety;

Whereas the growth and popularity of social networking websites has attracted millions of teenagers, providing access to a range of valuable services, making it all the more important to teach young users how to avoid potential threats like cyber bullies, predators, and identity thieves they may come across while using such services;

Whereas cybersecurity is a critical part of the United States national security and economic security;

Whereas the United States critical infrastructures and economy rely on the secure and reliable operation of information networks to support the United States military, civilian government, energy, telecommunications, financial services, transportation, health care, and emergency response systems;

Whereas Internet users and information infrastructure owners and operators face an increasing threat of malicious crime and fraud attacks through viruses, worms, Trojans, and unwanted programs such as spyware, adware, hacking tools, and password stealers, that are frequent and fast in propagation, are costly to repair, and may disable entire systems;

Whereas millions of records containing personally identifiable information have

been lost, stolen, or breached, threatening the security and financial well-being of United States citizens;

Whereas consumers face significant financial and personal privacy losses due to personally identifiable information being more exposed to theft and fraud than ever before;

Whereas national organizations, policy-makers, government agencies, private sector companies, nonprofit institutions, schools, academic organizations, consumers, and the media recognize the need to increase awareness of cybersecurity and the need for enhanced cybersecurity in the United States;

Whereas coordination between the numerous Federal agencies involved in cybersecurity efforts is essential to securing the cyber infrastructure of the United States;

Whereas the National Strategy to Secure Cyberspace, published in February 2003, recommends a comprehensive national awareness program to empower all people in the United States, including businesses, the general workforce, and the general population, to secure their own parts of cyberspace;

Whereas the White House's Cyberspace Policy Review, published in May 2009, recommends that the government initiate a national public awareness and education campaign to promote cybersecurity; and

Whereas the National Cyber Security Alliance, the Multi-State Information Sharing and Analysis Center, the Department of Homeland Security, and other organizations working to improve cybersecurity in the United States have designated October 2009 as the sixth annual National Cybersecurity Awareness Month which serves to educate the people of the United States about the importance of cybersecurity: Now, therefore, be it

*Resolved*, That the Senate—

(1) supports the goals and ideals of National Cybersecurity Awareness Month, as designated by the National Cyber Security Alliance, the Multi-State Information Sharing and Analysis Center, the Department of Homeland Security, and other organizations working to improve cybersecurity in the United States;

(2) continues to work with Federal agencies, businesses, educational institutions, and other organizations to enhance the state of cybersecurity in the United States; and

(3) congratulates the National Cyber Security Alliance, the Multi-State Information Sharing and Analysis Center, the Department of Homeland Security, and other organizations working to improve cybersecurity in the United States on the sixth anniversary of the National Cybersecurity Month during October 2009.

Mrs. FEINSTEIN. Mr. President, today I rise to submit, along with Senators ROCKEFELLER, GILLIBRAND, CARPER, MIKULSKI, LIEBERMAN, COLLINS, REID, LEVIN, BENNETT, SNOWE, LANDRIEU, HATCH, BAYH, and VOINOVICH, a resolution supporting National Cyber Security Awareness Month, which will be held next month.

We in the Congress are trying to make cybersecurity a priority issue, but much work remains to be done. A critical first step is to raise awareness and public understanding of the cyber threat and steps that can be taken to improve cybersecurity. This is true across Government and private industry, but the Government should play a leadership role.

Each year for the last 5 years, the National Cyber Security Alliance, the Multi-State Information Sharing and Analysis Center, the Department of

Homeland Security, and other organizations working to improve cybersecurity in the U.S. have designated October as National Cyber Security Awareness Month.

Today, I am submitting a resolution to officially designate National Cyber Security Awareness Month again this October.

The goal is to educate and empower Internet users to take simple steps to safeguard themselves from the latest online threats and respond to cyber crime and to bring Federal agencies, businesses, educational institutions, and other organizations together to encourage development and implementation of cybersecurity best practices.

Cybersecurity is a serious national security and economic security challenge of great complexity, deserving of increased attention from the Congress. As the Senate prepares to consider important cybersecurity legislation to provide new authorities and clarify privacy and legal issues, a few cyber-related observations and concerns can be mentioned now.

First, I am troubled by the lack of situational awareness on the opportunities, activities, and identities of cyber thieves or potential attackers on U.S. information networks. This is a serious weakness and a source of frustration for those responsible for oversight and strategic decision-making. Unfortunately, it will not be easy to remedy this because there are disincentives to report cyber intrusions and vulnerabilities in the U.S. Government and private sector. This must change. It must change quickly so that cybersecurity leaders can make well-informed decisions and respond to problems in real time.

Next, it is clear that cybersecurity activities must be conducted with strong congressional oversight that will demand thorough Executive branch planning before billions of dollars are authorized and appropriated. In addition, there must be a rigorous analysis of the government's use of legal authorities for national cybersecurity missions that preserve the reasonable privacy expectations of Americans. The government's role must be well-defined as its activities involving the Internet evolve. I appreciate the White House's effort to be transparent and open with Congress on this issue this year, and have high expectations for continued healthy cooperation.

We need to have those entities with cybersecurity responsibilities collaborating across the Government. That means homeland security, intelligence, military, foreign policy, law enforcement, and other components involved in cybersecurity must be working together. The President has begun, through his cybersecurity review earlier this year, to provide a clear vision, strategic direction, and effective integration of the wide range of cybersecurity activities. However, more progress in this area is needed.

I was pleased when President Obama made a major address on cybersecurity

at the end of May, but that strong first step has been followed by a four-month delay in appointing a White House cybersecurity coordinator. Until this position is filled, it will be difficult to have effective leadership and coordination on governmental cybersecurity efforts.

The Federal Government's communication strategy concerning cybersecurity must be improved as well. There should be a new plan on the best way to communicate the national cybersecurity policy to the public. Though some elements must be classified, it is important that the American people understand the Government's basic role in helping to secure information networks. The general rules and expectations for Government involvement, and how these may affect privacy, must be clearly explained.

In addition, the Government must consider that effective cybersecurity inside the U.S. will require stronger diplomatic efforts and an international agreement on what will and will not be tolerated in cyberspace. An international framework on cyber warfare, much like international conventions on traditional warfare, is needed to govern this rapidly growing field.

I also believe there should be a significant emphasis on long-term issues such as cyber research and development, recruiting cyber experts into government, and cyber education and training. In particular, recent studies sponsored by the Senate Select Committee on Intelligence have concluded that the Intelligence Community must dramatically increase funding for research and development in order for our cyber defenses to be effective in the future.

The online world is moving quickly, with cutting-edge technology expertise spread across the globe, and the U.S. cannot presume a clear-cut technology advantage as it has in other areas of national security. I recommend a balanced portfolio approach that includes a nationally coordinated program of long-term, high-risk research aimed at revolutionary breakthroughs, sustained even when faced with near-term budget pressures. I strongly support a rebalancing of the Federal Government's Comprehensive National Cybersecurity Initiative budget to address these concerns.

Finally, as a step beyond the Comprehensive National Cybersecurity Initiative's focus on securing Federal Government information networks, I am highly concerned about protecting the U.S. critical infrastructure. For example, the country's electric power grid, communications systems, and financial infrastructure are all critical to our way of life yet unacceptably vulnerable to cyber attack. The Government and the private sector must work together to share more effectively cyber threat and vulnerability information, and the administration and

the Congress must work together to determine the best mix of mandates, incentives, and other tools to improve critical infrastructure security.

Fortunately, there is an increasing level of interest and debate on cybersecurity issues in Congress and around the country. The Senate Intelligence Committee, which I have the privilege of chairing, has invested significant time assessing the cyber threat to our country and potential Government responses through the following initiatives: scores of personal meetings and staff briefings with government, private sector, academic, and nonprofit thought-leaders; six cyber hearings in the last 2 years; four 6-month studies by the Committee's Technical Advisory Group; a new, balanced oversight system for federal government cybersecurity programs, as proposed in the fiscal year 2010 intelligence authorization bill; and regular outreach to other congressional committees.

I want to thank my distinguished colleagues, Senators ROCKEFELLER, GILLIBRAND, CARPER, MIKULSKI, LIEBERMAN, COLLINS, REID, LEVIN, BENNETT, SNOWE, LANDRIEU, HATCH, VOINOVICH, and BAYH, for cosponsoring this resolution and for their leadership on this issue. I look forward to working with them and other members of Congress to improve our cybersecurity in the future.

**SENATE RESOLUTION 286—EXPRESSING CONDOLENCES TO THE FAMILIES OF THE INDIVIDUALS KILLED DURING UNUSUAL STORMS AND FLOODS IN THE STATE OF GEORGIA BETWEEN SEPTEMBER 18 AND SEPTEMBER 21, 2009, AND EXPRESSING GRATITUDE TO ALL OF THE EMERGENCY PERSONNEL WHO CONTINUE TO WORK WITH UNYIELDING DETERMINATION TO MEET THE NEEDS OF GEORGIA'S RESIDENTS**

Mr. ISAKSON (for himself and Mr. CHAMBLISS) submitted the following resolution; which was considered and agreed to:

S. RES. 286

Whereas beginning on September 18, 2009, the State of Georgia was hit by days of unusually strong storms that resulted in downpours and flooding;

Whereas numerous Georgia rivers and creeks, including the Chattooga and Chattahoochee Rivers and the Chickamauga Creek, swollen by days of rain, overtopped their banks, creating a dangerous and deadly situation for nearby residents;

Whereas the storms and floods took human lives;

Whereas the floodwater destroyed homes, flooded roadways, including major highways, compromised drinking water, severely damaged plumbing systems, and caused significant damage to homes and businesses;

Whereas on September 21, 2009, Georgia Governor Sonny Perdue declared a state of emergency in 17 counties, including Carroll, Catoosa, Chattooga, Cherokee, Clayton, Cobb, Crawford, DeKalb, Douglas, Forsyth, Fulton, Gwinnett, Newton, Paulding, Rockdale, Stephens, and Walker Counties;

Whereas the National Weather Service estimated that between 15 and 22 inches of rain fell in the metropolitan Atlanta counties of Gwinnett, Douglas, and Paulding between September 18 and September 21, 2009;

Whereas the rains broke a 130-year-old record at Hartsfield-Jackson International Airport;

Whereas hundreds of Georgians were evacuated from their homes, and more than 300 people sought refuge in shelters;

Whereas Governor Perdue estimated that more than 1,000 residences were seriously flooded;

Whereas the weather closed schools in several counties;

Whereas as many as tens of thousands of people were without power in metropolitan Atlanta;

Whereas search and rescue operations functioned in several counties where the water continued to rise;

Whereas the Georgia Emergency Management Agency coordinated with local emergency personnel and worked tirelessly to protect human lives and rescue those threatened by the floods;

Whereas the Georgia Emergency Management Agency facilitated requests for assistance from people and first responders all across the State of Georgia;

Whereas the Georgia Emergency Management Agency and other first responders acted valiantly in life-safety response operations, including delivering sandbags and rescuing people trapped in their cars and homes from the floodwater;

Whereas the Federal Emergency Management Agency activated its national and regional response coordination centers and worked closely with the State of Georgia to monitor the response efforts and identify and respond to any immediate emergency needs for the people and communities of the State that were impacted by the devastating floods; and

Whereas volunteers gave their time to help ensure that evacuees were sheltered, clothed, fed, and comforted through this traumatic event: Now, therefore, be it

*Resolved*, That the Senate—

(1) offers its deepest sympathy and condolences to the families of those who lost their lives in the flooding in the State of Georgia;

(2) expresses its condolences to the families who lost their homes and other property in the floods;

(3) expresses gratitude and appreciation to the people of the State of Georgia and the surrounding States, who worked to protect people from the rising floodwaters;

(4) expresses its support as the Federal Emergency Management Agency responds to the needs of the people and communities affected by the flooding; and

(5) honors the emergency responders, within and beyond metropolitan Atlanta and the State of Georgia, for their bravery and sacrifice during this tragedy.

**SENATE RESOLUTION 287—HONORING THE 25TH ANNIVERSARY OF THE ENACTMENT OF THE DRUG PRICE COMPETITION AND PATENT TERM RESTORATION ACT OF 1984 (THE HATCH-WAXMAN ACT)**

Mr. BROWN submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 287

Whereas on September 24, 1984, the Drug Price Competition and Patent Term Restoration Act of 1984 (Public Law 98-417; 98 Stat.

1585), commonly known as the Hatch-Waxman Act, was signed into law by President Ronald Reagan, at which time President Reagan indicated that generic drugs might save American consumers \$1,000,000,000 over the next 10 years;

Whereas this landmark law created the regulatory mechanism under which the Food and Drug Administration approves safe and affordable generic drugs;

Whereas each year for the past quarter century, the generic pharmaceutical industry has delivered billions of dollars in savings on the purchase of prescription drugs, far exceeding the original estimate;

Whereas a May 2009 report showed that during the preceding 10-year period, the use of generic drugs has saved the American health care system more than \$734,000,000,000, with the most-recent annual average exceeding \$121,000,000,000;

Whereas generic drugs accounted for more than 72 percent of all prescription drugs dispensed, yet accounted for only 17 percent of the spending on all prescription drugs, a differential that reflects the dramatically lower prices paid for generic drugs, which not only reduces consumer and taxpayer spending but also increases patient access to needed medicines; and

Whereas while the Hatch-Waxman Act does not have an explicit pathway for approval by the Food and Drug Administration of lower-priced versions of cutting-edge biologic medicines, which account for a rapidly growing portion of prescription medicine spending, the Act does provide a solid framework for such a pathway: Now, therefore, be it

*Resolved*, That it is the sense of Senate that—

(1) enactment of the Hatch-Waxman Act (Public Law 98-417; 98 Stat. 1585) in 1984 served to create the modern generic pharmaceutical industry, which has provided consumers with access to affordable drugs, yielding significant health and economic benefits for the Nation's health care system;

(2) Senator Orrin Hatch and Representative Henry Waxman deserve the Nation's gratitude for authoring and championing this landmark bipartisan legislation; and

(3) Congress should build on the work of these dedicated policymakers and enact legislation to create a pathway for approval by the Food and Drug Administration of safe and affordable generic versions of biologic medicines.

Mr. BROWN. Mr. President, I rise today to submit a resolution commemorating the 25th Anniversary of the Drug Price Competition and Patent Term Restoration Act, more commonly known as the Hatch-Waxman Act.

This historic legislation—which was signed into law exactly 25 years ago today, on September 24, 1984—marked the culmination of months of lengthy and often contentious debate over how to foster pharmaceutical innovation while at the same time encouraging competition from affordable generic prescription drugs.

Guided by my good friends and colleagues Representative HENRY WAXMAN of California and Senator ORRIN HATCH of Utah, Congress delivered a bill that struck the right balance between innovation and access, and put in place a new regulatory pathway to bring safe and effective generic medicines to market.

I doubt that anyone involved in the passage of Hatch-Waxman could have envisioned a quarter century ago the

magnitude of savings and the significant boost to new drug innovation that this bill has delivered.

According to a May 2009 report of IMS data, the use of FDA-approved generic medicines has saved the U.S. healthcare system approximately \$734 billion over the past 10 years.

Moreover, patients around the world can get needed medication that they would not be able to afford except for access to lower-cost generics.

At the same time, price competition from generics has acted to spur a dramatic increase in new drug research and development.

In short, the Hatch-Waxman Act has delivered above and beyond the intended result.

I urge my colleagues to view the success of this landmark legislation as an indicator of what we can accomplish in the field of biologic medicines.

Biologics are the most promising treatments available for diseases such as cancer, multiple sclerosis, and Alzheimer's, but they are expensive, often costing between \$20,000 and \$100,000 a year.

There is no explicit pathway for Food and Drug Administration approval of generic versions of these medicines under the Hatch-Waxman law; however, there is bipartisan agreement that we need to create one. To do that, we need to focus on our goals and bridge our differences.

The time to do that is now.

Biologic drugs are the fast growing component of prescription drug spending.

These drugs are expected to make up 50 percent of the pharmaceutical marketplace by 2020, but their high prices keep them out of reach for far too many patients and place an increasingly heavy financial burden on consumers, on businesses, and on taxpayers.

In 2007, the top six biologics accounted for more than \$7 billion of the nearly \$17 billion in direct prescription drug spending by Medicare.

That figure will continue to grow, and the amount taxpayers pay depends on whether Medicare can access lower-priced biogenerics or is forced to pay brand-name prices year after year after year.

Biogenerics hold the promise of making life-saving medicines available to all patients at an affordable cost.

With the explosion in biologics, we have a new generation of lifesaving medicines—and a new opportunity to reprise the historic victory Senator ORRIN HATCH and Representative HENRY WAXMAN achieved 25 years ago today.

With biologic use and prices spiraling upward, we have no: time to lose.

#### AMENDMENTS SUBMITTED AND PROPOSED

SA 2548. Mr. VITTER submitted an amendment intended to be proposed to amendment SA 2440 submitted by Mr. VITTER and in-

tended to be proposed to the bill H.R. 2996, making appropriations for the Department of the Interior, environment, and related agencies for the fiscal year ending September 30, 2010, and for other purposes; which was ordered to lie on the table.

SA 2549. Mr. VITTER (for himself, Mr. GRASSLEY, Mr. BUNNING, Mr. ROBERTS, and Mr. BROWNBACK) submitted an amendment intended to be proposed by him to the bill H.R. 2996, supra.

SA 2550. Ms. MURKOWSKI submitted an amendment intended to be proposed to amendment SA 2517 submitted by Mrs. FEINSTEIN and intended to be proposed to the bill H.R. 2996, supra; which was ordered to lie on the table.

SA 2551. Mrs. FEINSTEIN submitted an amendment intended to be proposed to amendment SA 2530 submitted by Ms. MURKOWSKI (for herself and Mr. THUNE) and intended to be proposed to the bill H.R. 2996, supra; which was ordered to lie on the table.

SA 2552. Mr. THUNE submitted an amendment intended to be proposed to amendment SA 2517 submitted by Mrs. FEINSTEIN and intended to be proposed to the bill H.R. 2996, supra; which was ordered to lie on the table.

SA 2553. Mr. SCHUMER submitted an amendment intended to be proposed to amendment SA 2513 submitted by Mr. SCHUMER and intended to be proposed to the bill H.R. 2996, supra; which was ordered to lie on the table.

SA 2554. Mrs. FEINSTEIN submitted an amendment intended to be proposed to amendment SA 2511 proposed by Mr. COBURN to the bill H.R. 2996, supra; which was ordered to lie on the table.

SA 2555. Mr. JOHANNES submitted an amendment intended to be proposed by him to the bill H.R. 3326, making appropriations for the Department of Defense for the fiscal year ending September 30, 2010, and for other purposes; which was ordered to lie on the table.

#### TEXT OF AMENDMENTS

SA 2548. Mr. VITTER submitted an amendment intended to be proposed to amendment SA 2440 submitted by Mr. VITTER and intended to be proposed by him to the bill H.R. 2996, making appropriations for the Department of the Interior, environment, 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:

In lieu of the matter proposed to be inserted, insert the following:

#### FUNDING LIMITATION

SEC. 4. None of the funds made available by this Act may be obligated for the purpose of departments or agencies funded by this Act and lead by Senate-confirmed appointees implementing policies of the Assistant to the President for Energy and Climate Change (commonly known as the "White House Climate Change Czar").

SA 2549. Mr. VITTER (for himself, Mr. GRASSLEY, Mr. BUNNING, Mr. ROBERTS and Mr. BROWNBACK) submitted an amendment intended to be proposed by him to the bill H.R. 2996, making appropriations for the Department of the Interior, environment, and related agencies for the fiscal year ending September 30, 2010, and for other purposes; as follows:

At the appropriate place, insert the following:

#### FUNDING LIMITATION

SEC. \_\_\_\_\_. None of the funds made available by this Act may be obligated for the purpose of departments or agencies funded by this Act and lead by Senate-confirmed appointees implementing policies of the Assistant to the President for Energy and Climate Change (commonly known as the "White House Climate Change Czar").

SA 2550. Ms. MURKOWSKI submitted an amendment intended to be proposed to amendment SA 2517 submitted by Mrs. FEINSTEIN and intended to be proposed to the bill H.R. 2996, making appropriations for the Department of the Interior, environment, 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:

Beginning on page 1, line 8, strike "greenhouse gases" and all that follows through page 2, line 7, and insert "carbon dioxide.".

SA 2551. Mrs. FEINSTEIN submitted an amendment intended to be proposed to amendment SA 2530 submitted to Ms. MURKOWSKI (for herself and Mr. THUNE) and intended to be proposed to the bill H.R. 2996, making appropriations for the Department of the Interior, environment, 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:

Beginning on page 1, strike line 6 and all that follows through the end of the amendment and insert the following:

SEC. 201. None of the funds made available under this Act may be used to apply the permit program under part C of title I, or under title V, of the Clean Air Act (42 U.S.C. 7440 et seq., 7661 et seq.) to any stationary source, on the basis of its emissions of greenhouse gases, that—

(1) is a farm, as the term is defined in section 6420(c)(2) of the Internal Revenue Code of 1986; or

(2) is not subject to the requirement to report greenhouse gas emissions under the final Environmental Protection Agency rule entitled "Mandatory Reporting of Greenhouse Gases" and numbered 2060-A079.

SA 2552. Mr. THUNE submitted an amendment intended to be proposed to amendment SA 2517 submitted by Mrs. FEINSTEIN and intended to be proposed to the bill H.R. 2996, making appropriations for the Department of the Interior, environment, 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:

In lieu of the matter proposed to be inserted, insert the following:

#### SEC. 423. PROHIBITION ON USE OF FUNDS.

None of the funds made available under this Act may be used to apply the permit program under part C of title I, or under title V, of the Clean Air Act (42 U.S.C. 7440 et seq., 7661 et seq.) to any stationary source, on the basis of its emissions of greenhouse gases, if—

(1) the stationary source—

(A) is a farm, as the term is defined in section 6420(c)(2) of the Internal Revenue Code of 1986; or

(B) is not subject to the requirement to report greenhouse gas emissions under the final Environmental Protection Agency rule entitled "Mandatory Reporting of Greenhouse Gases" and numbered 2060-A079; or

(2) the applicability of the program would result in an increase in electricity or gasoline prices.

**SA 2553.** Mr. SCHUMER submitted an amendment intended to be proposed to amendment SA 2513 submitted by Mr. SCHUMER and intended to be proposed to the bill H.R. 2996, making appropriations for the Department of the Interior, environment, 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 1, line 6 of the amendment, strike "shall use" and insert "may use up to".

**SA 2554.** Mrs. FEINSTEIN submitted an amendment intended to be proposed to amendment SA 2511 proposed by Mr. COBURN to the bill H.R. 2996, making appropriations for the Department of the Interior, environment, 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:

In lieu of the matter proposed to be inserted, insert the following:

**SEC. \_\_\_\_ . PROHIBITION ON USE OF FUNDS FOR NO-BID CONTRACTS AND GRANTS.**

(a) IN GENERAL.—Notwithstanding any other provision of this Act and subject to subsection (b), none of the funds appropriated or otherwise made available by this Act may be—

(1) used to make any payment in connection with a contract not awarded using competitive procedures in accordance with the requirements of section 303 of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253), section 2304 of title 10, United States Code, and the Federal Acquisition Regulation; or

(2) awarded by a grant not subject to merit-based competitive procedures, needs-based criteria, and other procedures specifically authorized by law to select the grantee or award recipient.

(b) LIMITATIONS.—The prohibition under subsection (a), shall not apply to the awarding of contracts or grants with respect to which—

(1) not more than 1 applicant submits a bid for a contract or grant;

(2) Federal law specifically otherwise authorizes a grant or contract to be entered into without regard for the laws, regulations, or requirements described in subsection (a)(1), including formula grants for States; or

(3) Federal laws otherwise authorize grants, contracts, or compacts to federally recognized Indian tribes or tribally owned businesses.

**SA 2555.** Mr. JOHANNIS submitted an amendment intended to be proposed by him to the bill H.R. 3326, making appropriations for the Department of Defense 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. \_\_\_\_ . (a) HIGH PRIORITY NATIONAL GUARD COUNTERDRUG PROGRAMS.**—Of the amount appropriated or otherwise made available by title VI under the heading "DRUG INTERDICTION AND COUNTER-DRUG ACTIVITIES, DEFENSE", up to \$30,000,000 may be available for the purpose of High Priority National Guard Counterdrug Programs.

(b) **SUPPLEMENT NOT SUPPLANT.**—The amount made available by subsection (a) for the purpose specified in that subsection is in addition to any other amounts made available by this Act for that purpose.

**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 Subcommittee on Public Lands and Forests.

The hearing will be held on Thursday, October 8, 2009, at 2:30 p.m. in room SD-366 of the Dirksen Senate Office Building.

The purpose of the hearing is to receive testimony on the following bills:

S. 522, to resolve the claims of the Bering Straits Native Corporation and the State of Alaska to land adjacent to Salmon Lake in the State of Alaska and to provide for the conveyance to the Bering Straits Native Corporation of certain other public land in partial satisfaction of the land entitlement of the Corporation under the Alaska Native Claims Settlement Act;

S. 865 and H.R. 1442, to provide for the sale of the Federal Government's reversionary interest in approximately 60 acres of land in Salt Lake City, Utah, originally conveyed to the Mount Olivet Cemetery Association under the Act of January 23, 1909;

S. 881, to provide for the settlement of certain claims under the Alaska Native Claims Settlement Act, and for other purposes;

S. 940, to direct the Secretary of the Interior to convey to the Nevada System of Higher Education certain Federal land located in Clark and Nye counties, Nevada, and for other purposes;

S. 1272, to provide for the designation of the Devil's Staircase Wilderness Area in the State of Oregon, to designate segments of Wasson and Franklin Creeks in the State of Oregon as wild or recreation rivers, and for other purposes; and

S. 1689, to designate certain land as components of the National Wilderness Preservation System and the National Landscape Conservation System in the State of New Mexico, and for other purposes.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record should send it to the Committee on Energy and Natural Resources, United States Senate, Washington, DC 20510-6150, or by email to allison.seyferth@energy.senate.gov.

For further information, please contact David Brooks at (202) 224-9863 or Allison Seyferth at (202) 224-4905.

**AUTHORITY FOR COMMITTEES TO MEET**

**COMMITTEE ON ARMED SERVICES**

Mrs. FEINSTEIN. Mr. President, I ask unanimous consent that Committee on Armed Services be authorized to meet during the session of the Senate on September 24, 2009, at 10 a.m.

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

**COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS**

Mrs. FEINSTEIN. Mr. President, I ask unanimous consent that the Com-

mittee Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on September 24, 2009, at 9:30 a.m., to conduct a hearing entitled "Emergency Economic Stabilization Act: One year later."

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

**COMMITTEE ON FINANCE**

Mrs. FEINSTEIN. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session of the Senate on September 24, 2009, at 9:30 a.m., in room 216 of the Hart Senate Office Building.

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

**COMMITTEE ON THE JUDICIARY**

Mrs. FEINSTEIN. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate, on September 24, 2009, at 10 a.m., in SD-226 of the Dirksen Senate Office Building, to conduct an executive business meeting.

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

**SELECT COMMITTEE ON INTELLIGENCE**

Mrs. FEINSTEIN. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on September 24, 2009, at 2:30 p.m.

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

**SUBCOMMITTEE ON FEDERAL FINANCIAL MANAGEMENT, GOVERNMENT INFORMATION, FEDERAL SERVICES, AND INTERNATIONAL SECURITY**

Mrs. FEINSTEIN. Mr. President, I ask unanimous consent that the Committee on Homeland Security and Governmental Affairs' Subcommittee on Federal Financial Management, Government Information, Federal Services, and International Security be authorized to meet during the session of the Senate on September 24, 2009, at 10:30 a.m. to conduct a hearing entitled, "Getting to Better Government: Focusing on Performance".

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

**SUBCOMMITTEE ON OVERSIGHT OF GOVERNMENT MANAGEMENT, THE FEDERAL WORKFORCE, AND THE DISTRICT OF COLUMBIA**

Mrs. FEINSTEIN. Mr. President, I ask unanimous consent that the Committee on Homeland Security and Governmental Affairs's Subcommittee on Oversight of Government Management, the Federal Workforce, and the District of Columbia be authorized to meet during the session of the Senate on September 24, 2009, at 2:30 p.m. to conduct a hearing entitled "A Review of U.S. Diplomatic Readiness: Addressing the Staffing and Foreign Language Challenges Facing the Foreign Service."

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

#### FISCAL YEAR 2010 FEDERAL AVIATION ADMINISTRATION EXTENSION ACT

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of H.R. 3607; that the bill be read the third time and passed; that the motion to reconsider be laid upon the table, and that any statements relating to the matter be printed in the RECORD.

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

The bill (H.R. 3607) was ordered to be read a third time, was read the third time, and passed.

#### RESERVE OFFICERS ASSOCIATION MODERNIZATION ACT OF 2009

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 158, S. 1599.

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

The legislative clerk read as follows:

A bill (S. 1599) to amend title 36, United States Code, to include in the federal charter of the Reserve Officers Association leadership positions newly added in its constitution and bylaws.

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

Mr. LEAHY. Mr. President, I am pleased that today the Senate will pass the Reserve Officers Association Modernization Act of 2009. I thank Senator CHAMBLISS and Senator PRYOR, cosponsors of this legislation and chairs of the U.S. Reserve Caucus, for their hard work and support of this legislation.

This legislation makes several updates to the charter of the Reserve Officers Association, ROA, to more accurately reflect the organization's current operation. First, it adds the position of "president elect" to its constitution and bylaws. Additionally, under the legislation, the national executive committee is expanded to include three representatives from each of the seven branches of the uniformed services. This bill makes the first changes to the ROA charter since 1998 and will enable ROA to continue its good work.

Since its founding in 1922, the ROA has worked on behalf of the National Guard and Reserves and their families. For over 85 years, ROA has remained committed to its original mission, to "support and promote the development and execution of a military policy for the United States that will provide adequate National security." The Reserve Officers Association represents the Reserve components officers for the Army, Air Force, Navy, Marine Corps, Coast Guard, the Air and Army National Guard, Public Health Service, and the officers of the National Oceanic and Atmospheric Administration.

As chair of the Senate National Guard Caucus, I have worked closely

with groups like the Reserve Officers Association, ROA, to ensure that the National Guard and Reserves have access to more affordable health care, a greater influence in the military, adequate training facilities and supplies, and shorter troop deployments in Iraq and Afghanistan. The National Guard and Reserves provide an invaluable contribution to our Nation's military, our national security, and disaster relief efforts, and it is vital that we continue to support their needs.

The Reserve Officers Association has provided a voice to the men and women that serve our country in the National Guard and Reserves. I am proud that today the Senate has demonstrated its support for the brave members of the National Guard and Reserves by passing this legislation.

Mr. REID. Mr. President, I ask unanimous consent that the bill be read the third time, passed, the motion to reconsider be laid upon the table, with no intervening action or debate, and that any statements relating to the matter be printed in the RECORD.

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

The bill (S. 1599) was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 1599

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

#### SECTION 1. SHORT TITLE.

This Act may be cited as the "Reserve Officers Association Modernization Act of 2009".

#### SEC. 2. INCLUSION OF NEW LEADERSHIP POSITIONS IN THE FEDERAL CHARTER OF THE RESERVE OFFICERS ASSOCIATION.

(a) NATIONAL EXECUTIVE COMMITTEE.—Section 190104(b)(2) of title 36, United States Code, is amended—

(1) by inserting "the president elect," after "the president,";

(2) by inserting "a minimum of" before "3 national executive committee members,"; and

(3) by striking "except the executive director," and inserting "except the president elect and the executive director,".

(b) OFFICERS.—Section 190104(c) of such title is amended—

(1) in paragraph (1)—

(A) by inserting "a president elect," after "a president,";

(B) by inserting "a minimum of" before "3 national executive committee members,";

(C) by striking "a surgeon, a chaplain, a historian, a public relations officer,"; and

(D) by striking "as decided at the national convention" and inserting "specified in the constitution of the corporation"; and

(2) in paragraph (2)—

(A) by inserting "and take office" after "be elected"; and

(B) by striking "and the national public relations officer," and inserting "the judge advocate, and any other national officers specified in the constitution of the corporation,".

(c) VACANCIES.—Section 190104(d)(1) of such title is amended by striking "president and last past president," and inserting "president, president elect, and last past president,".

(d) RECORDS AND INSPECTION.—Section 190109(a)(2) of such title is amended by striking "national council," and inserting "other national entities of the corporation,".

Mrs. BOXER. Mr. President, tonight the Senate has approved a 3-month extension of the FAA Reauthorization Act.

While I understand the importance of passing a short-term extension of this law, I am disappointed that the full Senate has yet to act on the FAA reauthorization bill that was ordered reported by the Senate Commerce Committee in July. That bill, the FAA Air Transportation Modernization and Safety Improvement Act, includes long overdue legislation known as the Airline Passenger Bill of Rights.

Too often, airline passengers are trapped on airplanes without basic needs such as food, water, medicine, working restrooms or proper cabin ventilation.

Just last month, passengers on a flight from Houston to Minneapolis-St. Paul were diverted to Rochester, MN, and forced to spend the night trapped in a small commuter airplane.

Two weeks later, a flight carrying more than 100 passengers bound for Minneapolis was forced to sit on the tarmac at JFK airport in New York for 6 hours before finally departing. The passengers, including parents traveling with infants, were forced to endure overflowing bathrooms and had no real food or water to speak of.

These are not isolated examples of a few airlines with ineffective policies. USA Today recently reported that since January 2007, 200,000 domestic passengers on 3,000 flights have been stranded in airplanes on the tarmac for 3 hours or more.

This is unacceptable. We must pass the Airline Passenger Bill of Rights this year—before the 3-month extension of the FAA reauthorization bill expires. The Passenger Bill of Rights, which I have introduced with Senator OLYMPIA SNOWE, would require airlines to offer passengers the option of safely leaving a plane they have boarded once that plane has sat on the ground for 3 hours.

Americans deserve a safe and efficient aviation system. We cannot afford to wait another year to pass long overdue legislation that will make our skies safer and protect passengers from excessive tarmac delays. No American should ever be forced to spend the night in a plane on an airport tarmac. We can prevent this and we must.

I know the Senate is working to address many important challenges at this time. But, we cannot lose sight of the aviation challenges facing our country. It is time for Congress to meet its responsibility to the flying public.

#### GRANTING A FEDERAL CHARTER TO THE MILITARY OFFICERS ASSOCIATION OF AMERICA

Mr. REID. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of S. 832, and that the Senate proceed to its immediate consideration.



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

The clerk will report.

The legislative clerk read as follows:

A bill (S. 832) to amend title 36, United States Code, to grant a Federal charter to the Military Officers Association of America, and for other purposes.

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

Mr. REID. Mr. President, I ask unanimous consent that the bill be read the third time and passed, the motion to reconsider be laid upon the table, and if there are statements, I ask that they be printed in the RECORD.

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

The bill (S. 832) was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 832

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

# SECTION 1. GRANT OF FEDERAL CHARTER TO MILITARY OFFICERS ASSOCIATION OF AMERICA.

(a) GRANT OF CHARTER.—Part B of subtitle II of title 36, United States Code, is amended by inserting after chapter 1403 the following new chapter:

## “CHAPTER 1404—MILITARY OFFICERS ASSOCIATION OF AMERICA

“Sec.

“140401. Organization.

“140402. Purposes.

“140403. Membership.

“140404. Governing body.

“140405. Powers.

“140406. Restrictions.

“140407. Tax-exempt status required as condition of charter.

“140408. Records and inspection.

“140409. Service of process.

“140410. Liability for acts of officers and agents.

“140411. Annual report.

“140412. Definition.

## “§ 140401. Organization

“(a) FEDERAL CHARTER.—Military Officers Association of America (in this chapter, the ‘corporation’), a nonprofit organization that meets the requirements for a veterans service organization under section 501(c)(19) of the Internal Revenue Code of 1986 and is organized under the laws of the Commonwealth of Virginia, is a federally chartered corporation.

“(b) EXPIRATION OF CHARTER.—If the corporation does not comply with the provisions of this chapter, the charter granted by subsection (a) shall expire.

## “§ 140402. Purposes

“(a) GENERAL.—The purposes of the corporation are as provided in its bylaws and articles of incorporation and include—

“(1) to inculcate and stimulate love of the United States and the flag;

“(2) to defend the honor, integrity, and supremacy of the Constitution of the United States and the United States Government;

“(3) to advocate military forces adequate to the defense of the United States;

“(4) to foster the integrity and prestige of the Armed Forces;

“(5) to foster fraternal relations between all branches of the various Armed Forces from which members are drawn;

“(6) to further the education of children of members of the Armed Forces;

“(7) to aid members of the Armed Forces and their family members and survivors in every proper and legitimate manner;

“(8) to present and support legislative proposals that provide for the fair and equitable treatment of members of the Armed Forces, including the National Guard and Reserves, military retirees, family members, survivors, and veterans; and

“(9) to encourage recruitment and appointment in the Armed Forces.

## “§ 140403. Membership

“Eligibility for membership in the corporation, and the rights and privileges of members of the corporation, are as provided in the bylaws of the corporation.

## “§ 140404. Governing body

“(a) BOARD OF DIRECTORS.—The composition of the board of directors of the corporation, and the responsibilities of the board, are as provided in the articles of incorporation and bylaws of the corporation.

“(b) OFFICERS.—The positions of officers of the corporation, and the election of the officers, are as provided in the articles of incorporation and bylaws.

## “§ 140405. Powers

“The corporation has only those powers provided in its bylaws and articles of incorporation filed in each State in which it is incorporated.

## “§ 140406. Restrictions

“(a) STOCK AND DIVIDENDS.—The corporation may not issue stock or declare or pay a dividend.

“(b) DISTRIBUTION OF INCOME OR ASSETS.—The income or assets of the corporation may not inure to the benefit of, or be distributed to, a director, officer, or member of the corporation during the life of the charter granted by this chapter. This subsection does not prevent the payment of reasonable compensation to an officer or employee of the corporation or reimbursement for actual necessary expenses in amounts approved by the board of directors.

“(c) LOANS.—The corporation may not make a loan to a director, officer, employee, or member of the corporation.

“(d) CLAIM OF GOVERNMENTAL APPROVAL OR AUTHORITY.—The corporation may not claim congressional approval or the authority of the United States Government for any of its activities.

“(e) CORPORATE STATUS.—The corporation shall maintain its status as a corporation incorporated under the laws of the Commonwealth of Virginia.

## “§ 140407. Tax-exempt status required as condition of charter

“If the corporation fails to maintain its status as an organization exempt from taxation under the Internal Revenue Code of 1986, the charter granted under this chapter shall terminate.

## “§ 140408. Records and inspection

“(a) RECORDS.—The corporation shall keep—

“(1) correct and complete records of account;

“(2) minutes of the proceedings of the members, board of directors, and committees of the corporation having any of the authority of the board of directors of the corporation; and

“(3) at the principal office of the corporation, a record of the names and addresses of the members of the corporation entitled to vote on matters relating to the corporation.

“(b) INSPECTION.—A member entitled to vote on any matter relating to the corporation, or an agent or attorney of the member, may inspect the records of the corporation for any proper purpose at any reasonable time.

## “§ 140409. Service of process

“The corporation shall comply with the law on service of process of each State in

which it is incorporated and each State in which it carries on activities.

## “§ 140410. Liability for acts of officers and agents

“The corporation is liable for any act of any officer or agent of the corporation acting within the scope of the authority of the corporation.

## “§ 140411. Annual report

“The corporation shall submit to Congress an annual report on the activities of the corporation during the preceding fiscal year. The report shall be submitted at the same time as the report of the audit required by section 10101(b) of this title. The report may not be printed as a public document.

## “§ 140412. Definition

“In this chapter, the term ‘State’ includes the District of Columbia and the territories and possessions of the United States.”

(b) CLERICAL AMENDMENT.—The table of chapters at the beginning of subtitle II of title 36, United States Code, is amended by inserting after the item relating to chapter 1403 the following new item:

“1404. Military Officers Association of America ..... 140401”.

## MEASURES DISCHARGED

Mr. REID. Mr. President, I ask unanimous consent that the Environment and Public Works Committee be discharged from further consideration of the following bills, all en bloc: H.R. 2913, H.R. 1687, H.R. 2053, H.R. 2498, and H.R. 2121; that the bills be read a third time and passed, en bloc, with the motions to reconsider laid upon the table.

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

## SIDNEY M. ARONOVITZ UNITED STATES COURTHOUSE

The bill (H.R. 2913) was ordered to a third reading, was read the third time, and passed.

## RALPH REGULA FEDERAL BUILDING AND UNITED STATES COURTHOUSE

The bill (H.R. 1687) was ordered to a third reading, was read the third time, and passed.

## ALBERT ARMENDARIZ, SR., UNITED STATES COURTHOUSE

The bill (H.R. 2053) was ordered to a third reading, was read the third time, and passed.

## WILLIAM O. LIPINSKI FEDERAL BUILDING

The bill (H.R. 2498) was ordered to a third reading, was read the third time, and passed.

## CONVEYANCE OF REAL PROPERTY IN GALVESTON, TEXAS

The bill (H.R. 2121) was ordered to a third reading, was read the third time, and passed.

# CONDOLENCES TO THE FAMILIES OF THE INDIVIDUALS KILLED DURING UNUSUAL STORMS AND FLOODS IN GEORGIA

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to S. Res. 286.

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

The legislative clerk read as follows:

A resolution (S. Res. 286) expressing condolences to the families of the individuals killed during unusual storms and floods in the State of Georgia between September 18 and September 21, 2009, and expressing gratitude to all of the emergency personnel who continue to work with unyielding determination to meet the needs of Georgia's residents.

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

Mr. CHAMBLISS. Mr. President, I come to the floor with a heavy heart to express condolences to those in my home State of Georgia as well as others across the southern part of our country who have been affected by the recent devastating floods.

It is hard to imagine that 1 year ago we in Georgia were in the fourth year of extensive drought. Yet today across the metro Atlanta area and throughout north Georgia, we have gone from a water crisis in the last couple of years to rising waters that have transformed neighborhoods into rivers, ballfields into lakes, and basements into dank pools. Rafts and kayaks have taken the place of cars in streets. In many areas, the only dry places are rooftops and treetops.

For 4 days and 4 nights, beginning September 18, water poured from the sky in torrents, and rose from rivers, creeks, and the saturated ground to claim lives and livelihoods, worldly possessions, and treasured memories in flooded basements, attics, driveways, and fields.

The Chattooga and Chattahoochee Rivers and Chickamauga Creek, swollen by days of rain, topped their banks, with deadly results. The Chattahoochee crested at 30 feet, some 15 feet above flood stage.

Nearly 1,000 families have lost their homes to flooding they never expected to see in their lifetimes. Others found their businesses submerged. Because most are not in floodplains, they do not have flood insurance. Many have lost everything they own during already tough economic times.

In addition to homes and businesses, the rising waters destroyed roadways, swept away bridges, tainted drinking water, and damaged sewer systems. It will take months, if not years, to repair the damage.

Even more heart-wrenching is the fact that nine Georgians and one resident of Alabama, just across the State line, have perished in the rushing waters.

When all was said and done, more than 20 inches of rain fell on Georgia, breaking a 130-year-old record at Atlanta's Hartsfield-Jackson Inter-

national Airport. More than 30,000 people were without power in the metro Atlanta area. The Red Cross sheltered hundreds rendered homeless by the floods.

However, the worst situations often bring out the best in people. Local first responders and emergency personnel worked tirelessly to protect lives and property and to rescue those trapped by the waters. Their bravery and sacrifice is exemplary.

Also, the Georgia Emergency Management Agency worked around the clock to facilitate requests for assistance. The Federal Emergency Management Agency worked closely with the State to anticipate and respond to emergency needs, and countless volunteers gave time and energy to ensure that evacuees were sheltered, clothed, fed, and comforted. They all have Georgians' and my personal deepest, most heartfelt gratitude.

I would like to express my sympathy to the families of those who have lost loved ones, homes, and livelihoods. To that end, Senator ISAKSON and I have submitted this resolution, S. Res. 286, expressing condolences to those affected and appreciation to emergency responders and others who helped them. I urge my colleagues to support the resolution tonight.

On September 21, Gov. Sonny Perdue declared a state of emergency in 17 counties. I understand President Obama called Governor Perdue Tuesday night to discuss the needs of Georgians and assured the Governor that his request for Federal aid would receive prompt attention. To that end, today we received notification that 4 of the 17 affected counties have been declared disaster areas by President Obama, and I am certain the others, when the processing is completed, will likewise be declared disaster areas.

Tomorrow, Vice President BIDEN will accompany Senator ISAKSON and myself to Georgia to take a firsthand look at what is going on.

Mr. President, we are literally underwater. Georgia and other parts of the Southeast need the assistance of the Federal Government in this case, as well as the State government. To that end, we are seeing the response in a very appropriate way.

Mr. REID. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, and the motions to reconsider be laid upon the table.

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

The resolution (S. Res. 286) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

## S. RES. 286

Whereas beginning on September 18, 2009, the State of Georgia was hit by days of unusually strong storms that resulted in downpours and flooding;

Whereas numerous Georgia rivers and creeks, including the Chattooga and Chat-

tahoochee Rivers and the Chickamauga Creek, swollen by days of rain, overtopped their banks, creating a dangerous and deadly situation for nearby residents;

Whereas the storms and floods took human lives;

Whereas the floodwater destroyed homes, flooded roadways, including major highways, compromised drinking water, severely damaged plumbing systems, and caused significant damage to homes and businesses;

Whereas on September 21, 2009, Georgia Governor Sonny Perdue declared a state of emergency in 17 counties, including Carroll, Catoosa, Chattooga, Cherokee, Clayton, Cobb, Crawford, DeKalb, Douglas, Forsyth, Fulton, Gwinnett, Newton, Paulding, Rockdale, Stephens, and Walker Counties;

Whereas the National Weather Service estimated that between 15 and 22 inches of rain fell in the metropolitan Atlanta counties of Gwinnett, Douglas, and Paulding between September 18 and September 21, 2009;

Whereas the rains broke a 130-year-old record at Hartsfield-Jackson International Airport;

Whereas hundreds of Georgians were evacuated from their homes, and more than 300 people sought refuge in shelters;

Whereas Governor Perdue estimated that more than 1,000 residences were seriously flooded;

Whereas the weather closed schools in several counties;

Whereas as many as tens of thousands of people were without power in metropolitan Atlanta;

Whereas search and rescue operations functioned in several counties where the water continued to rise;

Whereas the Georgia Emergency Management Agency coordinated with local emergency personnel and worked tirelessly to protect human lives and rescue those threatened by the floods;

Whereas the Georgia Emergency Management Agency facilitated requests for assistance from people and first responders all across the State of Georgia;

Whereas the Georgia Emergency Management Agency and other first responders acted valiantly in life-safety response operations, including delivering sandbags and rescuing people trapped in their cars and homes from the floodwater;

Whereas the Federal Emergency Management Agency activated its national and regional response coordination centers and worked closely with the State of Georgia to monitor the response efforts and identify and respond to any immediate emergency needs for the people and communities of the State that were impacted by the devastating floods; and

Whereas volunteers gave their time to help ensure that evacuees were sheltered, clothed, fed, and comforted through this traumatic event: Now, therefore, be it

*Resolved*, That the Senate—

(1) offers its deepest sympathy and condolences to the families of those who lost their lives in the flooding in the State of Georgia;

(2) expresses its condolences to the families who lost their homes and other property in the floods;

(3) expresses gratitude and appreciation to the people of the State of Georgia and the surrounding States, who worked to protect people from the rising floodwaters;

(4) expresses its support as the Federal Emergency Management Agency responds to the needs of the people and communities affected by the flooding; and

(5) honors the emergency responders, within and beyond metropolitan Atlanta and the State of Georgia, for their bravery and sacrifice during this tragedy.

## EXECUTIVE SESSION

## NOMINATION OF JONATHAN B. JARVIS

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider Calendar No. 406, the nomination of Jonathan B. Jarvis to be Director of the National Park Service; that immediately after reporting the nomination, the Senate proceed to vote on confirmation of the nomination.

The PRESIDING OFFICER. The clerk will report the nomination.

The legislative clerk read the nomination of Jonathan B. Jarvis, of California, to be Director of the National Park Service.

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the nomination of Jonathan B. Jarvis, of California, to be Director of the National Park Service?

The nomination was confirmed.

Mr. REID. I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. President, I ask unanimous consent that the President be immediately notified of the Senate's action, and that any statements relating to the nomination be printed in the RECORD.

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

## NOMINATION DISCHARGED

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Homeland Security and Governmental Affairs be discharged of PN704 and that the Senate then proceed to the nomination; that the nomination be confirmed and the motion to reconsider be laid upon the table; that no further motions be in order; that the President be immediately notified of the Senate's action and the Senate return to legislative session, and that any statements relating thereto be printed in the RECORD.

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

The nomination considered and confirmed is as follows:

## SMALL BUSINESS ADMINISTRATION

Peggy E. Gustafson, of Illinois, to be Inspector General, Small Business Administration.

## LEGISLATIVE SESSION

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

## GOLDEN GAVEL AWARD

Mr. REID. Mr. President, earlier today—actually, at 1:43 p.m. today—Senator TOM UDALL, the Senator from New Mexico, joined the 100-hour presiding club of the 111th Congress. He is

the third member of the freshman class to achieve this goal. These are individuals who preside over the Senate for 100 hours.

We have a tradition that those Senators who devote so much time to presiding in the Senate are given what we call a golden gavel. It is a very nice presentation, very nice keepsake, and we will make that presentation at our next caucus. I appreciate very much the work of TOM UDALL, devoting his time to making sure the proceedings on the floor are in keeping with the rules of the Senate, and we welcome him to this most prestigious club—a member of the golden gavel society.

I believe the Presiding Officer is a member of the golden gavel society.

The PRESIDING OFFICER. The Senator is correct.

Mr. REID. I ask the Presiding Officer, were you the first to get it? In your capacity as a Senator from the State of Alaska, what is the answer?

The PRESIDING OFFICER. In my capacity as a Senator from the State of Alaska, the answer is yes.

Mr. REID. It was a close battle, but you won.

## ORDERS FOR FRIDAY, SEPTEMBER 25, 2009

Mr. REID. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until tomorrow morning at 9:30 a.m., Friday, September 25; that following the prayer and pledge, the Journal of proceedings be approved to date, the morning hour be deemed expired, the time for the two leaders be reserved for their use later in the day, and the Senate then resume consideration of H.R. 3326, the Defense appropriations bill.

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

## PROGRAM

Mr. REID. As I announced earlier tonight, Mr. President, there will be no rollcall votes during Friday's session of the Senate. On Monday, which is Yom Kippur, the most significant and highest Holy Day of those of the Jewish faith, we will not be in session. Therefore, the next vote will occur around 5:30 p.m., Tuesday, September 29.

As a reminder to all Senators, Paul Kirk will be sworn in as the new Senator from the State of Massachusetts, replacing Senator Kennedy. That will be at 3:30 tomorrow afternoon.

## ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. REID. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand adjourned under the previous order.

There being no objection, the Senate, at 7:12 p.m., adjourned until Friday, September 25, 2009, at 9:30 a.m.

## NOMINATIONS

Executive nominations received by the Senate:

## DEPARTMENT OF STATE

FREDERICK D. BARTON, OF MAINE, TO BE AN ALTERNATE REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE SESSIONS OF THE GENERAL ASSEMBLY OF THE UNITED NATIONS, DURING HIS TENURE OF SERVICE AS REPRESENTATIVE OF THE UNITED STATES OF AMERICA ON THE ECONOMIC AND SOCIAL COUNCIL OF THE UNITED NATIONS.

BILL DELAHUNT, OF MASSACHUSETTS, TO BE A REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE SIXTY-FOURTH SESSION OF THE GENERAL ASSEMBLY OF THE UNITED NATIONS.

ELAINE SCHUSTER, OF FLORIDA, TO BE A REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE SIXTY-FOURTH SESSION OF THE GENERAL ASSEMBLY OF THE UNITED NATIONS.

CHRISTOPHER H. SMITH, OF NEW JERSEY, TO BE A REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE SIXTY-FOURTH SESSION OF THE GENERAL ASSEMBLY OF THE UNITED NATIONS.

MARY BURCE WARLICK, OF VIRGINIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF SERBIA.

WELLINGTON E. WEBB, OF COLORADO, TO BE AN ALTERNATE REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE SIXTY-FOURTH SESSION OF THE GENERAL ASSEMBLY OF THE UNITED NATIONS.

JIDE J. ZEITLIN, OF NEW YORK, TO BE REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE UNITED NATIONS FOR U.N. MANAGEMENT AND REFORM, WITH THE RANK OF AMBASSADOR.

JIDE J. ZEITLIN, OF NEW YORK, TO BE ALTERNATE REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE SESSIONS OF THE GENERAL ASSEMBLY OF THE UNITED NATIONS DURING HIS TENURE OF SERVICE AS REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE UNITED NATIONS FOR U.N. MANAGEMENT AND REFORM.

## EXECUTIVE OFFICE OF THE PRESIDENT

ISLAM A. SIDDIQUI, OF VIRGINIA, TO BE CHIEF AGRICULTURAL NEGOTIATOR, OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE, WITH THE RANK OF AMBASSADOR, VICE RICHARD T. CROWDER.

## FOREIGN SERVICE

THE FOLLOWING-NAMED CAREER MEMBERS OF THE SENIOR FOREIGN SERVICE OF THE DEPARTMENT OF STATE FOR PROMOTION INTO AND WITHIN THE SENIOR FOREIGN SERVICE TO THE CLASSES INDICATED:

CAREER MEMBERS OF THE SENIOR FOREIGN SERVICE OF THE UNITED STATES OF AMERICA, CLASS OF CAREER MINISTER:

CHRISTOPHER WILLIAM DELL, OF NEW JERSEY  
STEPHEN DONALD MULL, OF VIRGINIA  
DAVID DUANE PEARCE, OF VIRGINIA  
MICHAEL E. RANNEBERGER, OF VIRGINIA  
MARCI E. BIERMAN RIES, OF VIRGINIA

CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER COUNSELOR:

GINA ABERCROMBIE-WINSTANLEY, OF OHIO  
LUIS E. ARREAGA-RODAS, OF VIRGINIA  
ERGIBE A. BOYD, OF FLORIDA  
SAMUEL VINCENT BROCK, OF FLORIDA  
DOLORES MARIE BROWN, OF VIRGINIA  
SUE KATHERINE BROWN, OF VIRGINIA  
LEE A. BRUDVIG, OF CALIFORNIA  
DAVID RAYMON BURNETT, OF WASHINGTON  
PHILLIP CARTER III, OF VIRGINIA  
LINDA CAROL CHEATHAM, OF TEXAS  
MAURA CONNELLY, OF NEW JERSEY  
J. THOMAS DOUGHERTY, OF WYOMING  
GORDON K. DUQUOIX, OF ILLINOIS  
PHILIP HUGHES EGGER, OF TENNESSEE  
JAMES F. ENTWISTLE, OF VIRGINIA  
KAARA NICOLE ETTESVOLD, OF NEW YORK  
KENNETH J. FAIRFAX, OF CALIFORNIA  
MICHAEL GFÖELLER, OF VIRGINIA  
ROBERT GOLDBERG, OF MARYLAND  
ALAN ERIC GREENFIELD, OF MAINE  
JOHN J. HAAS, OF CALIFORNIA  
JOHN ASHWOOD HEFFERN, OF VIRGINIA  
MARY E. HICKEY, OF CALIFORNIA  
MICHAEL J. HURLEY, OF WASHINGTON  
AMY JANE HYATT, OF CALIFORNIA  
JASON P. HYLAND, OF VIRGINIA  
JAMES J. KENNEY, JR., OF FLORIDA  
THOMAS M. LEARY, OF FLORIDA  
CHRISTOPHER W. MURRAY, OF THE DISTRICT OF COLUMBIA

JEFFREY R. OLESEN, OF FLORIDA  
RICHARD GUSTAVE OLSON, JR., OF NEW MEXICO  
ANDREW CHARLES PARKER, OF VIRGINIA  
MICHAEL P. PELLETIER, OF MAINE  
TERRI LOUISE ROEL, OF MARYLAND  
DONNA J. ROGINSKI, OF TEXAS  
CHARLES H. ROSENARB, OF WASHINGTON  
WAYNE STEVEN SALISBURY, OF WASHINGTON  
DAVID BRUCE SHEAR, OF NEW YORK  
MARC J. SIEVERS, OF VIRGINIA  
DOUGLAS A. SILLMAN, OF TEXAS  
GENTRY O. SMITH, OF VIRGINIA  
JULIA REEVES STANLEY, OF NEW YORK  
JAMES C. SWAN, OF CALIFORNIA  
W. STUART SYMINGTON IV, OF MISSOURI  
SAMUEL B. THIELMAN, OF VIRGINIA

MATTHEW HEYWOOD TUELLER, OF UTAH  
KRISHNA R. URS, OF TEXAS  
VIVIAN S. WALKER, OF CALIFORNIA  
ROBERT SHIAO WANG, OF CALIFORNIA  
JAMES L. WILLIAMS, OF FLORIDA  
KARL E. WYCOFF, OF CALIFORNIA

THE FOLLOWING-NAMED CAREER MEMBERS OF THE FOREIGN SERVICE FOR PROMOTION INTO THE SENIOR FOREIGN SERVICE, AS INDICATED:

CAREER MEMBERS OF THE SENIOR FOREIGN SERVICE OF THE UNITED STATES OF AMERICA, CLASS OF COUNSELOR:

KARL PHILIP ALBRECHT, OF VIRGINIA  
CAROLYN PATRICIA ALSUP, OF FLORIDA  
MARJORIE ANN AMES, OF FLORIDA  
THEODORE HOWARD ANDREWS, OF CALIFORNIA  
KRISTEN F. BAUER, OF MASSACHUSETTS  
LORA BERG, OF THE DISTRICT OF COLUMBIA  
JENNIFER L. BRUSH, OF VERMONT  
MICHAEL BARRY CHANG, OF CALIFORNIA  
TODD CRAWFORD CHAPMAN, OF TEXAS  
SANDRA ELIANE CLARK, OF PENNSYLVANIA  
SUSAN R. CRYSTAL, OF PENNSYLVANIA  
SYLVIA REED CURRAN, OF ALASKA  
BRYAN W. DALTON, OF CALIFORNIA  
KATHERINE SIMONDS DHANANI, OF THE DISTRICT OF COLUMBIA  
KATHLEEN A. DOHERTY, OF NEW YORK  
THOMAS J. DOWLING, OF VIRGINIA  
JOANNE EDWARDS, OF CALIFORNIA  
JAMES R. ELLICKSON-BROWN, OF OREGON  
CHRISTOPHER FITZGERALD, OF FLORIDA  
MARK A. GOODFRIEND, OF CALIFORNIA  
WILLIAM KEVIN GRANT, OF VIRGINIA  
PETER DAVID HAAS, OF FLORIDA  
ANNE HALL, OF MAINE  
MICHAEL A. HAMMER, OF MARYLAND  
DENNIS B. HANKINS, OF VIRGINIA  
MATTHEW TRACY HARRINGTON, OF CALIFORNIA  
JENNIFER CONN HASKELL, OF FLORIDA  
DONALD L. HEFLIN, OF VIRGINIA  
CHRISTOPHER PAUL HENZEL, OF NEW YORK  
LEO J. HESSION, JR., OF CALIFORNIA  
CATHERINE M. HILL-HERNDON, OF PENNSYLVANIA  
THOMAS MARK HODGES, OF TENNESSEE  
JACQUELINE KAY HOLLAND-CRAIG, OF IDAHO  
PERRY L. HOLLOWAY, OF SOUTH CAROLINA  
JOHN F. HOOVER, OF VIRGINIA  
ELIZABETH ANN HOPKINS, OF THE DISTRICT OF COLUMBIA  
THOMAS J. HUSHEK, OF THE DISTRICT OF COLUMBIA  
DONALD EMIL JACOBSON, OF VIRGINIA

MAKILA JAMES, OF NEW YORK  
KATHY A. JOHNSON CASARES, OF TEXAS  
KELLY ANN KEIDERLING FRANZ, OF CALIFORNIA  
GLEN C. KEISER, OF CALIFORNIA  
DONALD WILLIAM KORAN, OF CALIFORNIA  
PATRICIA A. LACINA, OF CALIFORNIA  
SAMUEL CLARK LAEUCHLI, OF ARIZONA  
SUZANNE I. LAWRENCE, OF ARIZONA  
THOMAS H. LLOYD, OF VIRGINIA  
EDWARD LOO, OF CALIFORNIA  
DONALD LU, OF CALIFORNIA  
BARBARA J. MARTIN, OF MARYLAND  
MICHAEL MCCARTHY, OF VIRGINIA  
JENNIFER ALLYN MCINTYRE, OF THE DISTRICT OF COLUMBIA  
JUDITH A. MOON, OF VIRGINIA  
DONALD LEROY MOORE, OF FLORIDA  
JOHN G. MORAN, OF VIRGINIA  
SEAN MURPHY, OF VIRGINIA  
JEROME JOHN OETGEN, OF PENNSYLVANIA  
HILARY S. OLSIN-WINDECKER, OF VIRGINIA  
PAUL B. PATIN, OF VIRGINIA  
JOSEPH S. PENNINGTON, OF VIRGINIA  
CHARISSE MELANIE PHILLIPS, OF FLORIDA  
NECIA LEANNE QUAST, OF WASHINGTON  
HELEN PATRICIA REED-ROWE, OF MARYLAND  
GARACE A. REYNARD, OF TEXAS  
SANDRALEE M. ROBINSON, OF IOWA  
THOMAS G. ROGAN, OF NEW HAMPSHIRE  
DAVID SIEFKIN, OF CALIFORNIA  
DARNALL C. STEUART, OF VIRGINIA  
ERIC W. STROMAYER, OF VIRGINIA  
MARY JANE TEIRLYNCK, OF CALIFORNIA  
DAPHNE M. TITUS, OF CALIFORNIA  
MICHAEL STEPHEN TULLEY, OF CALIFORNIA  
DAVID A. TYLER, OF NEW HAMPSHIRE  
RICHARD CHARLES WESTON, OF VIRGINIA  
SHARON NANCY WHITE, OF CONNECTICUT  
KAREN L. WILLIAMS, OF MISSOURI  
PAUL DASHNER WOHLERS, OF WASHINGTON  
TIMOTHY P. ZUNIGA-BROWN, OF NEVADA

CAREER MEMBERS OF THE SENIOR FOREIGN SERVICE, CLASS OF COUNSELOR, AND CONSULAR OFFICERS AND SECRETARIES IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

STANLEY H. BENNETT, OF MINNESOTA  
JEFFREY C. BREED, OF NEW HAMPSHIRE  
MARK J. COHEN, OF TEXAS  
PETER W. DREW, OF MASSACHUSETTS  
JOHN MARTIN EUSTACE, JR., OF VIRGINIA  
MARILYN CLAIRE FERDINAND, OF VIRGINIA

CHRISTOPHER F. FLYNN, OF TEXAS  
CAROL E. GALLO, OF FLORIDA  
MARY A. GRAY, OF FLORIDA  
KELII J. GURFIELD, OF WASHINGTON  
CHRISTINE L. HUGHES, OF FLORIDA  
PAUL C. ISAAC, OF TEXAS  
ARDESHIR F. KANGA, OF MARYLAND  
FREDRICK J. KETCHEM, OF FLORIDA  
JAMES D. LEMARIE, OF VIRGINIA  
JEFFREY SCOTT MYERS, OF VIRGINIA  
ALMA REBECA PABST, OF CALIFORNIA  
CHARLES RALPH SHUSTER, OF PENNSYLVANIA  
MARK J. STEAKLEY, OF FLORIDA

## DISCHARGED NOMINATION

The Senate Committee on Homeland Security and Governmental Affairs was discharged from further consideration of the following nomination by unanimous consent and the nomination was confirmed:

PEGGY E. GUSTAFSON, OF ILLINOIS, TO BE INSPECTOR GENERAL, SMALL BUSINESS ADMINISTRATION.

## CONFIRMATIONS

Executive nominations confirmed by the Senate; Thursday, September 24, 2009:

### DEPARTMENT OF THE INTERIOR

JONATHAN B. JARVIS, OF CALIFORNIA, TO BE DIRECTOR OF THE NATIONAL PARK SERVICE.

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.

### SMALL BUSINESS ADMINISTRATION

PEGGY E. GUSTAFSON, OF ILLINOIS, TO BE INSPECTOR GENERAL, SMALL BUSINESS ADMINISTRATION.