United States of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 111th CONGRESS, FIRST SESSION

Vol. 155 WASHINGTON, WEDNESDAY, OCTOBER 7, 2009 No. 144

Senate

The Senate met at 9:30 a.m. and was called to order by the Honorable TOM UDALL, a Senator from the State of New Mexico.

PRAYER

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

Let us pray.

Sovereign Lord of history, as good and faithful people serve and struggle for the path of justice and peace, give them light for the way and strength for the day. Defend them against any deterrent to responsible statesmanship, any compromise that sacrifices principle or violates conscience.

Lord, infuse them with a grace and wisdom that will measure personal conviction in the light of truth and courage. May each Senator act consistent with enlightened conscience however costly to personal ambition.

In disagreement, give our lawmakers the wisdom to respect opposing views and a willingness to be flexible when the good of the people and the ripeness of the issues become clear. Shine Your hope into their lives to brighten the darkness of discouragement as You remind our Senators that their times are in Your hands.

We pray in Your holy Name. Amen.

PLEDGE OF ALLEGIANCE

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

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

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

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

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, October 7, 2009.

To the Senate:

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

ROBERT C. BYRD,
President pro tempore.

Mr. UDALL of New Mexico thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

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

SCHEDULE

Mr. REID. Mr. President, following leader remarks, the Senate will be in a period of morning business for 1 hour, with Senators allowed to speak for up to 10 minutes each. The majority will control the first 30 minutes, and the Republicans will control the second 30 minutes.

Following morning business, the Senate will resume consideration of the Commerce-Justice-Science appropriations bill. Senators will be notified when votes are scheduled during today's session.

SENATE TRADITION OF RECITING THE PLEDGE OF ALLEGIANCE

Mr. REID. Mr. President, the Senate is nothing if not a temple to tradition. We debate and we deliberate according to the same rules where Daniel Webster, Henry Clay, and John C. Calhoun considered the future of this young Nation. We vote without the help of modern electronics, as the first Senators did. We refer to each other in the third person during even the most heated discussions.

Senators take pride in the desks they occupy. Senator Ted Kennedy surrendered his rights as a senior member of the body at one time to move closer to the front so he could share the same desk in which his two brothers' names are inscribed.

On the top of those desks, we still keep the same inkwell. Mine has paper clips in it now. But this is an inkwell. It has been there since we moved to this Chamber and even before.

Also, we have something from the past. There is a spittoon. Most all Senators chewed tobacco and did a lot of spitting. But we still have these here. I use mine to throw a few pieces of wastepaper in it. But it is traditional. That is the Senate.

There are other things that can be referred to if Senator BYRD were here. He is an expert. In fact, he is the custodian of Senate traditions. He can add countless more examples. I could add a few more, but Senator BYRD could add an endless list.

Last week, the Republican leader and I spoke here about the Pledge of Allegiance to our flag. When we first came to the Senate—Senator MCCONNELL and this Senator—there was no Pledge of Allegiance before we started our sessions.

So today I will speak of one of our new traditions which we have observed daily for more than a decade and, again, just a few minutes ago when we recited the pledge. It has not always been this way.

The sentence itself, barely more than 30 words long, is not even 120 years old. The pledge was born like many American rituals, out of capitalism. It was written by a children's magazine trying to sell American flags on the 400th anniversary of Columbus's arrival in the Americas.

The magazine sought to sell flags to every school in the country, and a minister and author named Francis Bellamy penned the pledge to promote unity among schoolchildren as the Nation reeled from the recent Civil War.

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

Almost a half century later, at the end of World War II, Congress formerly recognized the pledge, but it was not yet a Senate staple, not until 10 years ago, when a New Hampshire schoolgirl wrote to Senator Bob Smith of New Hampshire and asked why the Senate did not recite the pledge every morning. She noted the House of Representatives recited it and her school did but not the Senate. Francis Bellamy would have been proud. The line he wrote to instill allegiance in schoolchildren ultimately became part of the Senate procedure at the behest of a student from New Hampshire.

We now recite the Pledge of Allegiance before any Senate business begins, and we are reminded of our common procedures and our shared loyalty, despite our often opposing outlooks politically.

The first day the pledge was recited in public schools across the country was Columbus Day in 1892. So ahead of this Columbus Day, which will fall this coming Monday, I take a brief moment to remind my fellow Senators and all those who are watching and listening to the Senate of one of our newest and proudest traditions, the salute to our flag.

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 therein for up to 10 minutes each, with the time equally divided and controlled between the two leaders or their designees, with the majority controlling the first half and the Republicans controlling the final half.

The Senator from Washington State is recognized.

HEALTH CARE

Mrs. MURRAY. Mr. President, I have been troubled recently by some of the claims I have heard about health insurance reform legislation that we have been working on in the Senate. When I spoke on the floor earlier this July, I said all you had to do was look at a newspaper, turn on cable news to see that the rhetoric on health insurance reform was heating up.

Unfortunately, as is often the case, the debate has not gotten any better, but it certainly has gotten louder. I know there is a lot of concern out there, and there is a lot of bad information going around.

The latest outrageous claim about reform is it would hurt America's seniors. I am here to tell our seniors and their families: That claim is false. I wish to make this perfectly clear: We are not proposing, here in the Senate, to cut Medicare benefits or to do anything to negatively affect the health of those who are receiving Medicare.

When you hear rumors about how reform will affect seniors, consider the source. Listen to some of the inflammatory quotes. A Republican Member of the House of Representatives said: ''Let me tell you here and now, it is socialized medicine.''

Another Republican Congressman said: ''We cannot stand idly by now as the Nation is urged to embark on an ill-conceived adventure in government medicine, the end of which no one can see, and from which the patient is certain to be the ultimate sufferer.''

Those are not quotes about the current health insurance reform effort. Those statements were made in 1965, when Republicans were opposing the establishment of Medicare. Their position has not changed. Republicans have voted against Medicare almost 60 times in the last 10 years. Now, all of a sudden, Republicans are claiming Democrats support cutting Medicare benefits.

That is why last Sunday the New York Times said Republicans are: ''Obscuring and twisting the facts and spreading unwarranted fear.'' Scoring cheap political points does not do anything at all to help Americans get affordable health insurance. Our families, and especially our seniors, deserve better.

You do not have to go back too far to find a perfect example of this Senate's history on that subject. Just last year, Democrats overcame a Republican filibuster and a veto by then-President Bush to pass the Medicare Improvements for Patients and Providers Act. That bill prevented physicians from suffering cuts in the rate at which Medicare reimburses them for providing care to seniors.

If those cuts had happened, many doctors would have been forced to stop treating patients with Medicare, severely limiting seniors' access to health care. Democrats wanted to make sure there were enough doctors to go around, and we did.

That bill also made commonsense fixes to Medicare, including requiring that Medicare cover cardiac and pulmonary rehabilitation programs, lowering seniors' copayments for mental health services, and preventing cuts to vital oxygen equipment and wheelchairs.

That bill should not have been controversial. It was vetoed by President Bush. When the Senate had a chance to pass the bill over that veto, it was only the Republicans, almost 60 percent of those in the Senate, who sided with President Bush and said no to our seniors.

Actions speak louder than words. So do not be fooled when Republicans tell you Democrats do not want to protect Medicare or that health insurance reform will not be good for seniors.

The truth is, the Democratic proposal will help our seniors get the care and coverage they need and have earned. This should come as no surprise to anyone. After all, Democrats have had a long history of working to improve the health and general well-being of seniors. Democrats created Medicare over the objections of Republicans because we recognized that no American should go without health care, especially once they reach retirement age.

The American people know it has been Democrats who have been protecting Medicare for seniors since we created the program 44 years ago. Nothing has changed. Today, it is still Democrats who are fighting for better, more affordable health care for everyone, especially our seniors. Specifically, our plan moves toward closing that doughnut hole in prescription drug coverage and provides access to more affordable generic drugs. If you have Medicare, our plan makes recommended preventative services such as colonoscopies and mammograms free.

It will ensure that if you have Medicare you get a free physical every year, not just when you enroll in the program. Our plan will aggressively attack the fraud and abuse that raises Medicare costs for seniors and for all of us as taxpayers.

One thing that has been too often missing from this discussion is what will happen to Medicare if there is no reform. It is now projected that as early as 2017, if we do not make changes, the money Medicare spends on benefits and services will be greater than its income. At that point, seniors would have to pay a greater portion of their health care costs or receive fewer Medicare benefits. That is unacceptable.

Our current system is unsustainable. That is one of the reasons the nonpartisan AARP supports reform this year. They know, like we do, that we must protect Medicare for our seniors over both the short term and the long term. Our plan will prevent cost increases and overpayments to insurance companies in order to keep Medicare out of the red. Now is the time to act on health care. Let me be clear. Under the Republican plan, insurance companies can dump you for preexisting conditions because you are a woman, because you are getting older, because you get sick, and Medicare will face bankruptcy.

Under our plan, if you like what you have, you keep it. If you don't we will provide affordable choices for you. We are going to protect Medicare. We will not raise taxes on the middle class, and we will not add a dime to the deficit.

Every day 14,000 more Americans lose their health insurance. That has to stop. This is not only about those who don't have coverage. The cost of treatment for the uninsured is passed on to every taxpayer. It is estimated that a family of four pays a hidden tax of

$1,000 every year in premiums to help pay for those who don't have coverage. We will help remove that burden from all working families. We will provide stability and choice to families and businesses. We will return health care decisions back where they belong, in the hands of patients and doctors, not insurance company bureaucrats. Rumors and misinformation and scare tactics about Medicare should not prevent us from passing meaningful health insurance reform legislation this year.

I yield the floor.

RECOGNITION OF THE MINORITY LEADER

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

THE DEMOCRATIC PLAN

Mr. MCCONNELL. Mr. President, the latest trillion-dollar, 1,000-page Democrat plan raises some questions—questions such as: What happens to Medicare?

Tens of millions of American seniors want to know.

Here is what we can say for sure.

The Democrat plan is a trillion-dollar experiment that cuts Medicare, raises taxes, and threatens the health care choices that millions of Americans now enjoy.

We know the Democrat plan will make massive cuts to Medicare—$500 billion worth—to fund more government spending.

We know Medicare Advantage benefits will be slashed almost in half, causing many of the 11 million seniors enrolled in it to lose benefits, such as hearing aid coverage and dental care.

We know it contains nearly $120 billion in cuts to hospitals that care for seniors, more than $40 billion from home health agencies, and nearly $8 billion from hospices.

And we know this: Medicare is already on the path to bankruptcy. Yet instead of trying to fix it, the Democrat plan is to use it as a piggy bank to pay for new government-run health care programs.

Republicans have tried to protect Medicare throughout this debate. Our amendments to do so were rejected in committee. We proposed an amendment to prevent cuts to skilled nursing facilities, long-term care hospitals, inpatient rehabilitation, hospice care and home health care. They rejected it. We offered an amendment to strike cuts that wouldn't improve Medicare. They rejected it. We offered an amendment to eliminate an unaccountable commission that would have the power to decide payments to Medicare providers. They rejected it. This isn't reform, and America's seniors know it.

Americans are demanding that their voices are heard in this debate. They want their questions answered, particularly when it comes to Medicare. They don't want the status quo. But they don't want what Democrats are pushing either: a trillion-dollar experiment that cuts Medicare, raises taxes, limits choices, and makes health care more expensive. Americans have questions. They are not getting the answers they deserve.

I yield the floor.

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

Mr. DURBIN. Mr. President, will the minority leader yield for a question?

Mr. MCCONNELL. I say to my friend from Illinois, I have an appointment in my office. I am happy to yield the floor.

Mr. DURBIN. I was going to ask the minority leader for the Republican plan for health care reform. Unfortunately, there is not a Republican plan for health care reform. What we have is a litany of criticism, a litany of complaint. That is what we have received during the course of this debate.

Senator MAX BAUCUS, chairman of the Finance Committee, took three of the most likely Republicans—Senators GRASSLEY, ENZI, and SNOWE—sat with them literally for months saying: Let's do this on a bipartisan basis. Meanwhile, the rest of us were a little frustrated, if not upset. We wanted to get moving, get into the debate. Let's get into this. It is a big issue. Health care reform is important. But Senator BAUCUS said: I have to try everything I can to make this a bipartisan effort. And he did. He spent months at it, day after day after day. What does he have to show for it? In the end, two of the Republican Senators walked out saying: We are not interested. The other said: I will wait and see.

So when they come to the floor critical of this debate on health care reform, the obvious question I would ask the Republican leader is: What is your plan? The status quo? You want to continue health care as we have it in America today? Do you want to try to defend what is happening to the cost of health care?

I was with a businessman from Chicago last week, a good, conscientious businessman, a young man, a principled man who has made money in his life but understands that he owes at least the people around him and his employees to give back. He said: Do you know what is going to happen to health insurance premiums for my employees? They go up 18 percent in 1 year, 18 percent. He said: I don't know if I can keep doing this. Guess what? His situation is being repeated over and over again. Businesses across America are dropping health care coverage for their employees because they can't afford it. The cost is out of hand.

Did we hear one word from the Republican leader about dealing with this cost escalation? No. The Republicans have no plan to deal with this. We are trying. It isn't easy. This is one-sixth of the economy. I love it when Senators come to the floor and call this a $1 trillion experiment. Let's put it in perspective. A trillion dollars is an enormous, almost unimaginable sum of money. But what will the cost of America's health care system be, for all of our health care, over the next 10 years? It will be $35 trillion. So $1 trillion in reform over 10 years represents less than 3 percent of the amount we are going to already be spending if we don't change the health care system and make it better. One trillion out of thirty-five million dollars? In perspective, we understand that if we are going to bring about real reform, we do have to invest in it.

Where will the trillion dollars go? The trillion dollars will go to help businesses with tax breaks to pay for health insurance for their employees. It will go to lower income working families so they can afford to buy health insurance. That is where the money will go.

Ultimately, do you know where it goes? It means that more and more Americans have health insurance coverage. Today, this day, and every day in America, 14,000 people will lose health insurance coverage. Imagine waking up this morning, heading off to work and learning during the course of the day that you have lost your job. It is happening. But you are not only losing your job, you are losing your health insurance. You go home at night and say to your spouse: Bad news. I just got the pink slip. I will be laid off in 2 weeks. But even worse news, our sick child with diabetes is no longer going to have health insurance coverage.

That is the reality for 14,000 families a day. When I hear the Republican leader criticize our effort to expand coverage of health insurance to the millions of Americans who are unprotected, to slow down this cancellation of health insurance for 14,000 Americans a day, my obvious question to him is: What is your alternative? What do you want to do? The answer is, nothing. Nothing except criticize.

There is nothing wrong with being critical. That is what this Chamber is all about. Ideas are up for debate. People will disagree. They will come up with their own point of view. That is good. A good healthy debate is what our government is about, what our Nation is about, and what can generate in the end a solution to our problems. But when I hear some of the things that have just been said: a 1,000-page bill. Does that bring you up short? Can't breathe? Your heart skips a beat, 1,000 pages? What if I told you this bill is addressing our health care system which consumes $1 out of every $6 in the American economy? One sixth of our gross domestic product deals with health care. Would it take 1,000 pages to address this in a responsible way? I am surprised it didn't take more. And how are we going to measure a bill in terms of its value? That bill is just too long. It is 1,000 pages long. I am sorry, maybe God got it right with the Ten Commandments and their brevity, but

for most of the rest of us, we struggle to make sure we get it right. And to make certain we get it right, we have to add some provisions to cover options and contingencies. It is 1,000 pages? So what. If it were 100 pages or 2,000 pages, would that make it any worse or any better? I don't get it.

Let me also talk about Medicare. Medicare was a creation in the 1960s of President Lyndon Johnson and a Democratic Congress, and by and large it was opposed by the Republican Party. The Republican Party in some of their criticisms will sound familiar. They argued that Medicare was socialized medicine. Medicare was a government health insurance plan and the government was going to get it wrong. In the end, they argued it would cost too much money, and it wouldn't provide good health care. Turns out, after 45 years, we can say conclusively they were wrong. For the 40 million Americans protected by Medicare, the results have been spectacular.

Look at one basic yardstick. Senior citizens in America are living longer. That is a good thing. Life expectancy rates are better for seniors today. Does it have anything to do with Medicare? I think it does, because seniors have access to quality medical care. It gives to those at age 65 the peace of mind of knowing that an accident that occurs this afternoon or a diagnosis that occurs tomorrow morning won't wipe out their life savings. If you are not lucky enough to have good health insurance at age 65, Medicare is there to protect you, your health, and your life savings in the process. Those who called it socialized medicine, as they are calling health care reform now, mainly came from the other side of the aisle. That is why when I hear them saying they are going to defend Medicare today, I am glad they have converted to our side. It is a late-in-life conversion, but some of those work too.

Then listen to how they explain it. The Senator from Kentucky slipped up and used the term Medicare Advantage. That is what this is all about. Let me explain what Medicare Advantage is. Private health companies came to Republicans years ago and said: The government has it all wrong in Medicare. They are not handling it well. They are not administering it well. It costs too much money. Let us show you that if we use the private sector health insurance companies, we can provide Medicare benefits at a lower cost than the government and do a better job.

They were given a chance to do it. They did it under the title Medicare Advantage, private health insurance companies competing with the government to provide Medicare benefits to prove they could do better and more cheaply. Some did, but most did not. At the end of this experiment, we find it is going to cost 14 percent more for the private health insurance companies to provide the same benefits the government is already providing. What it means is, we are subsidizing insurance companies to provide the same benefits the government already provides.

People across America under Medicare Advantage plans say: I kind of like this. Well, it turns out that the government is subsidizing more than Medicare. Who pays for the subsidy? Ultimately, the taxpayers but, in particular, the Medicare system. The money is taken out of the Medicare system to provide a subsidy to health insurance companies that failed to prove they could do this more economically.

This subsidy is something I think should end. I am prepared to phase it out in a reasonable way, but it should end. The private health insurance companies are being subsidized by our government to provide Medicare benefits which we can already provide at a lower cost. They have come to the floor criticizing this attempt to end the sweetheart deal with these private health insurance companies.

Make no mistake, the 800-pound gorilla in the room in this debate is the private health insurance companies. They don't want to see this change.

I quote my friend Dale Bumpers, a former Senator from Arkansas, who used to come to the floor and use this figure of speech. He said: They hate this like the devil hates holy water. They hate the idea of health care reform, health insurance companies do, because they are extremely profitable, when many other companies in America are failing. They do not want to rock the boat with anything like a not-for-profit health insurance plan that gives consumers a choice to leave private health insurance, if they personally choose. They do not want that to happen.

They certainly do not want to end this $170 billion subsidy of private health insurance companies under the Medicare Advantage Program. They do not want us to tell them they have to change their ways and their practices, that they can no longer cut off people from coverage just because of a preexisting condition, which they dream up or find buried in some application of 10 years ago.

We do not want them to be able to walk away from you when you need them, when somebody in your family is sick and needs care. We want them to be able to treat people fairly. We have to end this battle between doctors and insurance company clerks as to whether you are going to be hospitalized or receive a procedure.

These are things that go on every day. The health insurance companies hate these reforms that are part of this bill. The critics of the bill will not come to the floor and say this. They will talk about eviscerating Medicare.

Earlier, the Senator from Kentucky said we were going to cut $120 billion from hospitals. Do you know what? We spend more money on health care in America by a factor of two than any other country on Earth. Hospital administrators, such as in my own hometown of Springfield, IL, have said to me: Senator, if you can create a plan that provides everybody health insurance, and we don't have to provide charity care for people who come in without health insurance, that is going to dramatically cut our costs.

So can we save $120 billion in the hospitals across America over the next 10 years if more Americans have health insurance? Yes, without compromising the revenues for the hospitals or the quality of care. That is obvious. So when the Senator comes to the floor and says: They are going to take $120 billion from hospitals, he does not tell you the whole story. The rest of the story is: But if those 40 million Americans have health insurance, and the hospitals are getting paid through the health insurance, it is good for everyone. It is good for the people who are protected, it is good for the hospitals, and it is good for the rest of us who have health insurance and indirectly subsidize the care of the uninsured.

He talks about cuts—$40 billion—in home health care. I refer the Senator to an article which I have quoted on the floor before. It is an article entitled ''The Cost Conundrum,'' written by a surgeon in Boston, MA, named Atul Gawande, in the June 1 edition of The New Yorker. Please read it. Most Senators have. The President has. Most Members of the House have read it. It talks about McAllen, TX, where the cost of treating Medicare patients is one of the highest numbers in the Nation: $15,000 a year.

Why? What about McAllen, TX, makes it so expensive? It turns out it is so expensive because, unfortunately, many of the providers there are heaping on the procedures and heaping on the costs because they take a profit from it. It does not have anything to do with the older folks in McAllen, TX, being sicker or needing special care. It is overutilization, overuse of the system, and one of the areas is home health care.

Read this article about what is happening with much of—at least in that area of the country—home health care services. There is collusion between doctors and these home health care agencies. It is nothing short of an abuse of Medicare. It does not provide quality care. It just takes more money out of the system for care that is duplicative or unnecessary.

How is that good for America? How can we defend that? Can we do better there? Yes. Can we do better to the tune of $40 billion over 10 years? I think so. To argue this is somehow insidious and wrong is to ignore the obvious. We can find savings within the system that do not compromise quality.

Let me also say this. This notion that Medicare is, as the Senator said, our piggy bank that we are going to use to pay for health care reform is just plain wrong. We know we can save money through eliminating the subsidy to Medicare Advantage, phasing it out,

reducing it. But we also know we have a solemn obligation to those seniors on Medicare. They paid into it all their lives. They are counting on it. And they are counting on us.

The Democratic Party has been there for Medicare from its creation. We are not going to let seniors down. We are going to provide for them the basic care promised, and we hope more. I think, with a modest effort, we could close the doughnut hole in the prescription drug program under Medicare, and we should. That was something that never made any sense and creates a real disadvantage for seniors on limited income. I think we should close that. I also think preventive care for seniors makes sense—regular physical checkups, things that can enhance their lives and let them live independently as long as they want to and can, with our help.

I will tell you, this debate will continue. Now it gets into the part where the bill comes to the floor within the next week or so. We will entertain amendments from both sides. I hope, from the other side of the aisle, we have more than criticism. If they would step up and say: Here is our plan, it would be a much better debate. But so far they have not. They have decided to step to the sidelines and be critical of the game that is being played. That is their right to do under this democratic form of government, but it is a question of credibility.

If they are defending the status quo, if they want to continue with what we have in America, if they want to ignore the escalation in the cost of health care for businesses and individuals, families and governments, if they want to ignore the fact that 40 million Americans do not have health insurance, that 14,000 will lose their health insurance today, if they want to ignore the reality of all these people without insurance and the abuses heaped on them by health insurance companies for those who have insurance, then, frankly, that is not a constructive position in this debate.

We need to work together. We have tried to work together. We have invited the Republicans to come join us in this effort. But, unfortunately, they have taken the side of the insurance companies. They have taken the side of the status quo. They have not joined us.

I do not want to put people's insurance at risk by allowing insurance companies to continue to drop insurance when people need it the most. I do not think we should be in a position where we allow this to continue.

I hope, as part of health care reform, we can make a significant effort to change this, to bring real change to America. I am glad President Obama is leading us that way. I think together we can reach that goal. I know a lot of people are confused across this country trying to understand exactly what is going on in this debate. But a lot of people in good faith are trying to solve one of the biggest problems we have ever faced. I hope my friends on the Republican side of the aisle will do more than criticize. I hope they will join us in an effort to make a difference.

Mr. President, I yield the floor.

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

HEALTH CARE REFORM

Mr. ALEXANDER. Mr. President, it is always a privilege to hear the assistant Democratic leader, who is one of the most skillful orators in the Senate. In this case, he needs to be because he is put in the awkward position of having to defend, as I heard him, 1,000-page bills and Medicare cuts, which is an awkward place for the assistant Democratic leader to be.

As far as the Republican plan, he has heard our plan many times. We want to reduce costs. Instead of 1,000-page bills and changing the whole system and adding to the debt and cutting Medicare and raising premiums for millions of Americans, we would like to say our goal is to reduce costs—costs to you when you buy your health insurance and the cost of your government. We would like to go step by step in the right direction, which we say is reducing costs and re-earning the trust of the American people, and then we can take some more steps. We have offered a number of proposals to do that, none of which have been seriously considered.

For example, small businesses should be able to pool their resources the way big businesses can. If they could, they could afford to offer insurance—it has been estimated by the Congressional Budget Office—to millions more Americans. We should make a serious effort to eliminate junk lawsuits against doctors, which everyone agrees adds costs to the insurance premiums we buy and to the cost of health care.

We could allow Americans to purchase insurance across State lines. We could create health insurance exchanges so if you are buying an individual policy, you could buy that more easily. We can go across party lines to encourage the use of more technology. Almost all Republicans and I imagine some Democrats would like to change the incentives behind health spending, so we take the money we are using to subsidize health insurance now and spread it more equitably among all the people and allow them to buy more of their own insurance.

Those are five or six steps we could take in the direction of cutting costs. Instead, what we are presented with is, yes, another 1,000-page bill. We have some questions about the bill because it appears—we know it will cut your Medicare, and I want to go back to that in a moment—half the bill will be paid for by Medicare cuts. Forty million seniors depend on Medicare. Are we going to cut grandma's Medicare? We are not even going to spend it on grandma. We are going to spend it on a new program, at a time when the trustees of the Medicare Program have told us Medicare is going to go broke between 2015 and 2017. We are going to raise your taxes.

That is what the bill coming toward us would be. We are going to make it hard for your States to support colleges and education or raise your State taxes because we are sending the bill to them for a large Medicaid expansion. For millions of Americans, we are going to increase your premiums. We are going to make it more expensive for you to buy the same kind of policy you already have because the government is going to tell you exactly what kind of policy you should have. We are going to increase your Federal debt because the plan, as we hear about it, does not have any provision for paying doctors serving Medicare more over the next 10 years—which we always do—so that is another $285 billion on your debt, just if we pay doctors 10 years from now what we pay them today for the government-run programs. We are going to spend another $1 trillion. And, yes, it is a 1,000-page bill.

So we what we are saying is, we have had before this Senate for a long time a number of proposals we could use to reduce your cost when you buy health insurance and reduce the cost of your Federal Government, which is going broke because of health care expenses, but they are not being seriously considered. So we are saying, at least if you are going to come up with these 1,000-page bills to change our entire system, we want to read it and we want to know what it costs. Even the President has said we cannot add one dime to the deficit. How can we know we are not adding one dime to the deficit if we cannot read the bill and we do not know what it costs?

Senator BUNNING of Kentucky brought up that in the Finance Committee the other day, and the Democrats voted it down. They said you cannot even put the bill up for 72 hours—this 1,000-page bill—so we can find out if it cuts your Medicare, if it raises your taxes, if it bankrupts your State, if it increases your premium, if it increases the Federal debt. We cannot even find that out. They said: No, not even 72 hours.

Well, some Democratic Senators have taken a look at that and said—the Democrats who voted that down; and every vote against the 72-hour provision was a Democratic vote—they said: We do not agree with that. Eight Democrats have written Senator REID, and they said: The legislative text and the complete Congressional Budget Office scores of the health care legislation, as amended, should be made available to the public for 72 hours prior to the vote on the final passage of the bill in the Senate. Further, the legislative text of all amendments filed and offered for debate should be posted on a public Web site prior to beginning debate on the amendment on the Senate floor. The conference report ought to be as well.

I think what that means, in plain English, is that once the Finance Committee bill—which is not a bill now; it is just concepts—goes into Majority Leader REID's office, and he puts it together with the HELP Committee bill, which will be turned into legislative text, we would like for that to be on the Internet for 72 hours so we in the Senate and our staffs and the American people can read it.

Second, we want to make sure the Congressional Budget Office has a chance to read the entire bill so some staff member does not change it in the middle of the night, as they apparently did with the HELP Committee bill, and we can know exactly how much each of the provisions cost, and then we can start voting, then we can offer our amendments. As the Republican leader was saying today, some of our amendments are going to have to do with Medicare, the program that 40 million seniors depend on.

Let's be clear about this. Some things are facts. Half the bill is going to be paid for by Medicare cuts. Half the bill is going to be paid for by Medicare cuts. You can call them anything you want to, but they are Medicare cuts.

The second thing about it is, it may be grandma's Medicare we are cutting, but we are going to spend it on somebody other than grandma. We are going to take that money out of the Medicare Program, which is a $38 trillion unfunded liability and which the trustees say is going to go broke in 2017 and which 40 million Americans depend on, and we are going to take those savings and we are not going to spend it to make Medicare stronger; we are going to spend grandma's Medicare benefits on somebody else. We are going to cut her benefits and spend it on you. Does that make sense? We don't think so. We don't think so. We don't think we should be paying for this new $1 trillion bill by writing a check, as the Senator from Kansas has said, on an overdrawn bank account and buying a new car, which is what that turns out to be.

The Republican leader talked about what the cuts are to Medicare Advantage: $140 million. One-fourth of seniors on Medicare have Medicare Advantage accounts. Cuts include $150 billion for hospitals that care for seniors; $40 billion, home health agencies; $8 billion, hospices—all from Medicare to be spent on something else.

The President said people who are currently signed up for Medicare Advantage are going to have Medicare at the same level of benefits. Well, we want to read the bill and know what it costs because that is not what the Congressional Budget Office Director said. He testified that seniors under Medicare Advantage would have benefits that disappear under the bill that is coming out of the Finance Committee. He said those changes would reduce extra benefits such as dental, vision, and hearing coverage that currently are made available to beneficiaries.

We want to read the bill. We want to know what it costs. We want to know why we are cutting Medicare by $½ trillion—that is the first question—and the second question is, Why are we spending that money on something else when it ought to be spent on making Medicare stronger? The bill has $½ trillion in savings from Medicare. At least they could take that money and use it toward the money we pay to physicians. I mentioned it a little earlier, but every year physicians say: The government-run program of Medicare only pays us 80 percent of what private insurance plans pay us, and you are about to cut that. So we almost always, on a bipartisan basis, put it back up. That is not in the bill. We don't even include that. We don't take that into account. So that is going to add to the debt.

Then there are other questions we have in addition to the Medicare cuts. What about the elegantly called ''doc fix'' that will add to the debt? It is the Medicaid Program. To some people, that may get a little confusing. Medicare is for seniors. Medicaid is the program that usually has a different name in most States. It is a program that started years ago, and the Federal Government pays 40, 45 percent of it and the States pay the rest. It has been going straight to the Moon. According to the New York Times, costs are rising in Medicaid this year at record rates—7.9 percent.

I know as a former Governor, here is what really happens. You sit there making up your budgets, and you do the part for prisons and you do the part for kindergarten through the 12th grade and the part for highways and the part for State parks, and then the rest of the money is usually split between higher education and Medicaid. Guess what is happening. Medicaid goes up and higher education doesn't get the money. Then what happens? College tuition goes up because colleges such as the University of Tennessee and Texas and New Mexico and Colorado are underfunded today primarily because of increasing Medicaid costs.

What this bill does is dump a lot more low-income Americans into that Medicaid Program and send a lot of the bill to the States. The Governor of Tennessee, a Democrat, said in the morning paper that it is going to cost us $735 million at least—maybe over $1 billion—over the next 5 years. Tennessee can't afford that. Tennessee is a conservative, well-managed State. Governor Schwarzenegger has said that in California it could be up to $8 billion. California is already nearly bankrupt. The Democratic Governor of Michigan has said he doesn't see how they can pay for this. The Governors of every State have said to us: Mr. Senator, Mr. Congressman, if you want to expand Medicaid, if you want to expand Medicaid, pay for it; pay for it in Washington, don't send it to us.

So we are looking forward to reading this bill. We are looking forward to knowing what it costs. We have our proposals. I will be glad to spend some time on the floor with the assistant Democratic leader and talk with him about the Republican proposals to take us step by step toward reducing health care costs, first for you and your premiums and next for your government, and why we are skeptical of this 1,000-page bill. But we at least want to know what it costs. We at least want to know why it is cutting Medicare by half-trillion-dollar, and if it is being cut, why is grandma's Medicare cut being spent on some new program. We would like to know how much does it raise your taxes. We would like to be able to tell you what it is going to do to your State's education system and to your State taxes. We would like to be able to tell millions of Americans: Will this really raise your premiums instead of lowering them and will it really increase your Federal debt?

So we are grateful eight Democratic Senators have joined us in saying to the majority leader: Let's make sure this bill is finally a bill that will give us all the language before us, that it is on the Internet for 72 hours, and that we know exactly what the provisions cost—all of that before we have our first vote.

I thank the President, and I yield the floor.

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

Mr. CORNYN. Mr. President, I wish to thank my colleague from Tennessee for speaking so eloquently and raising the issues that are on the minds not just of Senators who are going to have to vote on this legislation but our constituents all across America—people who will be directly affected by what we do here on health care reform.

Yesterday, I came to the floor and I asked the question: Will we have a transparent debate? This morning, when I got up and checked my e-mail, I was delighted to see that eight Democratic Senators have written to the majority leader, Senator REID, and said they wanted to have bill language posted on the Internet and a score or cost by the Congressional Budget Office at least 72 hours before we are required to vote on the bill. That is exactly what we had requested in the Finance Committee, which we lost strictly on a party-line vote, an amendment that would have made that part of the bill. So I consider that progress. I am delighted that these eight Democratic Senators have asked the majority leader for that. I think that is a minimum we should expect in terms of transparency.

Today, I have a new question, and that is whether seniors will get to keep the Medicare benefits they currently have. Will seniors be able to keep the Medicare benefits they currently have? The President has made this a consistent theme, that if you like what you have, you are going to be able to keep it. He said in August that if you

like your health care plan, you can keep your health care plan. It seems pretty straightforward and unambiguous.

Last month, he was more specific about one part of Medicare. He said:

People currently signed up for Medicare Advantage are going to have Medicare and the same level of benefits . . . These folks will be able to get Medicare just as good and provide the same benefits.

Some of these programs get a little confusing, but let me explain that Medicare Advantage is a private sector competitor to Medicare fee-for-service, where you just—it basically provides people with an array of coverages, and I think Senator ALEXANDER mentioned vision and dental care and prescription drug coverage and the like.

I believe allowing seniors to keep the benefits they currently have under Medicare Advantage—and there are some 11 million of them—is a goal Republicans share with the President. So if the President is sincere when he says that Medicare—and particularly Medicare Advantage—beneficiaries can keep what they have, we would like to help him keep that promise. Medicare Advantage is working for about 11 million seniors to give them a choice with their health benefits, and half a million of those are in Texas. Half a million Medicare Advantage beneficiaries are in Texas.

As we have heard, Medicare fee-for-service, which is the government-run plan, pays doctors about 20 percent less than employer-sponsored insurance for reimbursements for services. That is why in my State, about 42 percent of doctors will not see a new Medicare patient under a fee-for-service arrangement, because the fees are so low that the doctors can't provide the service at that price and still stay in business. So what happens is that 89 percent of seniors have supplemental coverage. My mother, who passed away this last spring, bought supplemental coverage to try to make up for the difference where Medicare fee-for-service left that gap. Of course, many low-income Americans depend on Medicare Advantage as their supplemental coverage.

Some have claimed that Medicare Advantage provides extra payments, and they want to cut Medicare Advantage because they say it will reduce insurance company profits and not harm coverage. But under Federal law, that is simply not the case. Under Federal law, the fact is that 75 percent of those payments to Medicare Advantage over and above what Medicare fee-for-service pays go directly to better benefits for seniors, under current law. That is why we hear they get vision coverage, dental coverage, prescription drug coverage; they get better benefits because we as a Congress say 75 percent of those so-called extra payments go to provide better benefits. Unfortunately, the Finance Committee bill will take those benefits away from seniors enrolled in Medicare Advantage. In other words, if we were to call up this Finance Committee bill today and to pass it, it would violate the President's promise, that the 11 million people on Medicare Advantage would not see a cut in their benefits.

There are various numbers floating around. That is why we need what Senator ALEXANDER said: the numbers from the Congressional Budget Office. But the Finance Committee proposal cuts nearly $113 billion from the Medicare Advantage Program. Common sense tells us you can't do that without having a negative impact on Medicare Advantage for those 11 million seniors, 500,000 of them in Texas, as I said.

The Congressional Budget Office agrees with that sort of intuitive or commonsense conclusion. They estimate that the Finance Committee bill will cut benefits by more than half to Medicare Advantage seniors. During the Finance Committee markup, the Congressional Budget Office Director, Dr. Doug Elmendorf, told us that approximately half of the Medicare Advantage benefits will be cut for those seniors enrolled in Medicare Advantage.

So just as yesterday when my question was, will this debate be transparent, my question for today is, will seniors get to keep the Medicare benefits they currently have? I think that should be a focus. I know it will be a focus for the 11 million who are on Medicare Advantage. But for all seniors who are seeing a proposed cut of $½ trillion in Medicare in order to pay for a new government program while Medicare itself is on the brink of bankruptcy and has tens of trillions of dollars of unfunded liabilities, this is a question a lot of my constituents in Texas and a lot of seniors across the country are asking: Will seniors get to keep the Medicare benefits they currently have? That is what the President promised. We need to make sure this bill keeps that promise.

In the coming days, I will come back to the floor and ask more questions about these extraordinarily complex proposals we have seen, including the bills that have come out of the HELP Committee, the Finance Committee, and out of the House of Representatives, because I think we need to break it down into smaller pieces and ask these discrete questions so the American people can judge for themselves whether these bills do what the President has promised.

Mr. President, I yield the floor.

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

Mr. CORKER. Mr. President, do I have 10 minutes allocated?

The ACTING PRESIDENT pro tempore. There is 9 minutes remaining.

Mr. CORKER. It sounds as if I have 9 minutes.

The ACTING PRESIDENT pro tempore. That is correct.

Mr. CORKER. Thank you, Mr. President.

I also rise today to speak about the debate before the Congress right now, which is health care reform.

I believe we need health reform in this country and health insurance reform in this country. I would love to see us embark on a set of time-tested, budget-neutral principles. I absolutely believe we ought to address the issue of preexisting conditions. I absolutely believe we ought to look at exchanges where citizens all across this country have access to the same kinds of choices I have as a Senator. I hope we will address the issue of cross-state competition where people in States are not just stuck with the choices that exist because of the monopolies that occur within their State boundaries. So I would love to see some cross-state competition.

I absolutely believe we ought to have Tax Code changes. I think we ought to limit the amount of tax-free benefits individuals can receive from their employers. I will just throw out a number. If that number was established at $17,000, for instance, about $450 billion would be generated over a 10-year period that could be used as a voucher or refundable tax credit to enable 15 to 20 million Americans to be able to access private, affordable, quality insurance.

I think we ought to address tort reform. We know there is so much in the way of medical procedures that are done, in essence, for defensive medicine so that they are not sued or the victims of junk lawsuits.

I am one of those people who absolutely believes it is time in this country that we had certain health reforms and health insurance reform. I think now is the time to debate and put into place those sensible, time-tested reforms. My guess is, if we sat down in a bipartisan way, which I know is not occurring at this moment, we could go 50 yards down the field in a way to create access for Americans in our country that all of us want to see and, again, do so in a way that doesn't push off costs into future generations.

I have serious problems with what is being discussed in the Finance Committee today as far as how we are going to pay for the many reforms that go beyond what I just discussed. In many cases, it is very unnecessary. Let me go over a couple of those.

No. 1, I think most people are aware by now that the Senate Finance Committee mark is basically causing States to have an unfunded liability. The Governor of our State, who is on the other side of the aisle, just sent me a letter yesterday and told me he expects the revenues in the State of Tennessee to be at 2008 levels in the year 2013. In other words, there has been a tremendous decrease in revenues for State government. Yet per the mark before the Finance Committee today, they are pushing off on the citizens of our State a $735 million unfunded liability. That doesn't sound like a lot of money in Washington, but I can assure you it is a lot of money for the State of Tennessee. As you can imagine, as the years go out that number increases tremendously.

It is my belief there are States all across this country that are going to be coming to us asking why we are pushing off an issue to the State. I think that is incredibly irresponsible. I think we need to ensure that does not occur.

I have to tell you, an issue I have an even greater problem with is the fact that we all know we have a $40 trillion unfunded liability as it relates to Medicare. Two or three years ago, there was a broad consensus, on a bipartisan basis, that we needed to address the unfunded liability that threatens our country under the entitlement programs—mostly Medicare, which is $40 trillion. This bill takes $400 billion to $500 billion from Medicare and uses it to create a whole new entitlement. Instead of doing those things that would strengthen Medicare, which the trustees have said is going to be insolvent in 2017—instead of doing that, which is the responsible thing for us to focus on today, this Finance Committee mark would take money from a program that is insolvent and use it to leverage a new entitlement program. I think that is the most irresponsible, shortsighted thing this Congress can do.

In addition to that, it doesn't even deal with the issue of the doc fix. We all know physicians and providers who serve seniors today, to make the same money in 10 years they are making today, would cost $285 billion. Instead of dealing with that issue, the can is being kicked down the road, and we are not dealing with that.

I think the American people respect—and I respect—the people who came before us who are called the ''greatest generation.'' Sometimes they are called the ''greatest generation'' because of their sacrifices and their military efforts overseas. Sometimes it is because they saved and made the tough choices that have helped make this country great. But I believe if this Congress acts to take money from Medicare, which is insolvent, and doesn't use those cost savings to make Medicare more solvent, we will be contributing to the fact—and there is no doubt in my mind that the political leadership that exists today in this country is undoubtedly the most selfish that this country has ever seen. We are witnessing that today. We are a part of that today.

It is my belief if we continue to throw future generations under the bus, which is what we are doing with legislation like is being proposed today—we are throwing future generations under the bus to score a political victory that we all know is not paid for—the wrath of the American people is going to come upon us, and it should.

Mr. President, I have a letter from our Governor. I ask unanimous consent to have this letter printed in the RECORD. It talks about the costs this program will put on the State of Tennessee.

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

STATE OF TENNESSEE,
Nashville, TN, October 5, 2009.

Hon. BOB CORKER,
U.S. Senate,
Washington, DC.
Hon. BART GORDON,
House of Representatives,
Washington, DC.

DEAR BOB AND BART: The following information is in response to my telephone conversation with Bob last week, and represents our best snapshot of where we are as of Sunday evening the 4th. I hardly need to tell you that these numbers represent a difficult problem for our state.

PROJECTED TENNESSEE NET NEW COSTS OF SENATE FINANCE REFORM 2014–2019

[$ millions]

	Best estimate	Optimistic	Pessimistic
New Medicaid Members:			
Newly Eligible Members	$175	434	175
Already Eligible Not Enrolled	911	488	1,361
Total New Membership	1,086	922	1,537
Cost Savings Offsets:			
Elimination of Optional Groups >133%	(78)	(78)	(78)
Additional Drug Rebates (net)	(191)	(191)	(191)
TN-CoverTN Elimination	(91)	(91)	(91)
TN-Access TN Savings	(31)	(31)	(31)
TN-CoverRx Savings	(6)	(6)	(6)
	(397)	(397)	(397)
Additional Costs:			
Mandated Pharmacy Extensions	30	30	30
Presumptive Eligibility Net Costs	16	16	16
	46	46	46
Total State Costs of Reform	735	571	1,186

We've maintained good lists of assumptions and sources behind each of these numbers, and if you or your staff would like to review them, we'll certainly make them available to you.

The ''Best Estimate'' column is neutral to possibly slightly optimistic; the line for ''Elimination of 'Optional' Groups'' in particular will be difficult, although it has been made clear to us that we are expected to do so. Some of these cuts would be unpleasant (e.g. complete transfer to the Exchange of women with breast or cervical cancer, or institutionalized patients) and will require the specific approval of CMS, which has historically been difficult. I want to acknowledge that the White House, and Nancy Ann DeParle in particular, have been very helpful in facilitating our getting the best information available.

I would also point out two areas that are potential problems that are not incorporated in the table:

1. *Broader Pharmacy Benefits ($1.07 billion exposure).* The Baucus bill contains a provision that *Exchange* plans are required to have no lifetime or annual limits on ''any benefits'' and that the pharmacy benefit design be at least as good as Medicare Part D. We have (as do many states) a much more limited pharmacy benefit than this for Medicaid and I can't imagine that there won't be pressure to extend the Exchange mandated benefit to Medicaid as well. It would cost the state about a billion dollars over the period to do this, and of course there are many subareas of restrictions and controls such as mandates in the areas of preferred drug lists, prior authorization criteria, quantity limits, or additional drug rebate limitations (all of which are present in Part D) that would drive costs up substantially as well.

The fear is that new requirements here would not occur as a single action to be teed-up and discussed in the Congress, but quietly and state-by-state in the ongoing process of renewing waivers, approving state plans, and the like. It is right now the stated intention of Senate Finance to leave the Medicaid pharmacy benefit design alone; it would be of enormous relief to us to get that clearly written into the law.

2.– *Provider Payment Rates ($2.1 billion exposure).* Our analysis is based on an assumption that we will not be required as either a matter of law or practicality to increase provider rates to maintain an adequate provider network with the influx of new patients (and in the environment of federal cuts to Medicare rates). We currently pay on the average at 85% of Medicare (the national average is 72%), but separately from reform have budgeted to reduce these to the equivalent of 79% of Medicare in the next fiscal year as the stimulus money runs out. The cost of increasing provider payments from 79% to 100% of Medicare it $2.1 billion over the 5½ year period being considered. (Furthermore, in several states where provider payments have been recently reduced in response to budget needs, providers have filed suit in federal court seeking to prevent them, and in at least two states (California and Washington) have been successful. If this were to happen in Tennessee it would represent a further immediate unbudgeted cost of approximately $113 million annually, or an additional $1.2-1.4 billion over the ten year period.)

Bob and Bart, the problem that we're facing is simple: by 2013, we expect to have returned to our 2008 levels of revenue and will have already cut programs dramatically—over a billion dollars. At that point, we have to start digging out—we will have not given raises to state employees or teachers for five years, our pension plans will need shoring

up, our cash reserves (''rainy day fund'') will have been considerably depleted and in need of restoration, and we will not have made any substantial new investments for years. There will have been major cuts to areas such as Children's Services that we really need to restore. On top of these, there are all the usual obligations that need to be met—Medicaid, for example, will continue to grow at rates in excess of the economy and our tax revenues. It's going to take at least a full decade to dig our way out and back to where we were prior to the recession.

In this environment, for the Congress to also send along a mandatory bill for three quarters of a billion dollars for the health reform they've designed is very difficult. These are hard dollars—we can't borrow them—and make the management of our finances post-recession even more daunting than it already is. We keep a running budgetary estimate for my own use of what we project in the years ahead, and I've attached the current version of it to give you a sense of what we are facing.

I would point out that the problem is entirely recession-related. If our revenues had grown from the 2008 base at the normal average rates we have experienced over the years—good times and bad—we would have well over $2 billion of additional revenue in 2019 (and smaller obligations in the pension area) and would definitely be prepared to accommodate reform.

I very much want to support the President, and Lord knows that we have plenty of people in Tennessee who need help with health insurance. But this is an extraordinary time for us (and we are better off than many other states) and I will appreciate any way in which you can help us manage through this.

Warmest regards,

PHIL BREDESEN,
Governor.

Attachment.

State of Tennessee
10-Year Budget Projection as of 10/4/09
Cumulative Change from Base of 2008 in Millions - Increase / (Decrease)

	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016	FY 2017	FY 2018	FY 2019
I. Available Revenue Growth:											
State Revenue ($10,257 M Base)	$ (1,172)	$ (965)	$ (587)	$ (93)	$ 445	$1,011	$1,452	$1,910	$2,385	$ 2,878	$ 3,389
Base Budget Reductions	177	940	1,420	1,430	1,440	1,450	1,460	1,470	1,480	1,490	1,500
Federal Stimulus Revenue	420	1,055	659	-	-	-	-	-	-	-	-
Total Available Revenue	**$ (575)**	**$1,030**	**$1,492**	**$1,337**	**$1,885**	**$2,461**	**$2,912**	**$3,380**	**$3,865**	**$ 4,368**	**$ 4,889**
II. Absolute Requirements											
Base BEP (PK-12 Education)	$ 93	$ 378	$ 443	$ 269	$ 325	$ 381	$ 437	$ 493	$ 549	$ 605	$ 661
TennCare (current) @ 6.7%	15	182	331	345	525	715	925	1,145	1,375	1,625	1,895
Actuarial Increase in Pension Contr	-	-	150	150	250	250	300	300	350	350	400
Employee Health Insurance Rate Inc	17	46	114	188	268	355	450	553	665	787	920
Subtotal Absolute	**$ 125**	**$ 606**	**$1,038**	**$ 952**	**$1,368**	**$1,701**	**$2,112**	**$2,491**	**$2,939**	**$ 3,367**	**$ 3,876**
Remaining $	$ (700)	$ 424	$ 454	$ 385	$ 517	$ 760	$ 800	$ 889	$ 926	$ 1,001	$ 1,013
III. Base Requirements											
Emp Raises restart 2014	$ -	$ 2	$ 2	$ 7	$ 12	$ 174	$ 341	$ 513	$ 690	$ 872	$ 1,059
Prisons	20	110	84	83	133	143	153	163	213	223	233
Higher Education	83	166	166	1	51	101	151	201	251	301	351
Health and Social Services	4	75	33	51	70	90	110	130	150	170	190
Other Programs	382	503	292	229	364	425	448	491	557	601	645
Subtotal Base Rqmts	**$489**	**$856**	**$577**	**$371**	**$630**	**$933**	**$1,203**	**$1,498**	**$1,861**	**$2,167**	**$2,478**
Remaining $	$ (1,189)	$ (432)	$ (123)	$ 14	$ (113)	$ (173)	$ (403)	$ (609)	$ (935)	$ (1,166)	$ (1,465)
IV. Baucus/Senate Finance Bill	$ -	$ -	$ -	$ -	$ -	$ 66	$ 117	$ 116	$ 130	$ 145	$ 161

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

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

The assistant bill clerk proceeded to call the roll.

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

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

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

COMMERCE, JUSTICE, SCIENCE, AND RELATED AGENCIES APPROPRIATIONS ACT, 2010

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of H.R. 2847, which the clerk will report.

The assistant bill clerk read as follows:

A bill (H.R. 2847) making appropriations for the Departments of Commerce and Justice, and Science, and Related Agencies for the fiscal year ending September 30, 2010, and for other purposes.

Ms. MIKULSKI. Mr. President, I am very pleased to be joined today by my distinguished colleague from Alabama, Senator RICHARD SHELBY. We wish to present the Commerce-Justice appropriations bill to the Senate. What I wish to say to my colleagues is that as we do this, everyone should know this bill is a product of bipartisan cooperation. At times, when one views the Senate through the lens of the media, one would think that everything we do here is very prickly and very partisan. But that is not true, certainly of the Commerce-Justice-Science appropriations.

Senator SHELBY and I worked together on this bill. Yes, I do chair it, but it has been with maximum consultation with others on the other side of the aisle. It was the same way when Senator SHELBY chaired this committee.

We are pleased to present to the Senate the fiscal year 2010 bill to fund the Departments of Commerce and Justice and air science agencies. I thank Majority Leader REID and Minority Leader MCCONNELL for allowing to us to bring the CJS bill to the floor.

The CJS bill is a product of cooperation between Senator SHELBY and me and our excellent staff. We have worked hand in hand. I thank Senators INOUYE and Ranking Member COCHRAN for their allocation.

We were able to write a very good bill, but the stringent budget environment required the subcommittee to make difficult decisions. The CJS bill totals $64.9 billion in discretionary spending, consistent with the subcommittee's 302(b) allocation. So any amendments to the bill will need to be offset.

The purpose of the CJS bill is to fund the Department of Commerce and its bureaus and administration. Many people do not know what the Department of Commerce truly does. It is an array of complex agencies that is important to our economy: The Bureau of Industry and Security gives licenses for exports; the Economic Development Administration creates economic growth in our communities, particularly midsized to small towns; the Census Bureau, preparing now, somewhat unevenly, for the 2010 census; the Patent and Trade Office which protects our intellectual property; along with the International Trade Administration which enforces our trade laws.

We are particularly proud of the Commerce Department, of the National Institutes for Standards and Technology. It sets the standards for technology which allows our country and our companies to be able to compete in the global marketplace.

This subcommittee also funds the Department of Justice which keeps us safe from violent crime and terrorism. It prosecutes criminals of all kind—white collar, blue collar or no collar. It also has a vigorous approach to the despicable practice of being a sexual predator.

This subcommittee through the Department of Justice funds our State and local police departments which are so important as well from not only the enforcement end but the prosecution end through the U.S. Attorney's Office.

NASA is also funded through this subcommittee. It explores our planets and our universe and inspires our Nation and next generation to be scientists and engineers.

We also fund the National Oceanic and Atmospheric Administration, protecting our marine resources and the jobs that depend on them.

It also protects our weather to save lives. Many people don't realize that the wonderful weather reports they get in their communities comes because of the NOAA weather administration. They think it comes from the Weather Channel. We all love the Weather Channel, but the Weather Channel depends on NOAA.

The National Science Foundation is also funded, providing basic research at our universities to advance science and support teacher training and development.

We also fund several independent commissions and agencies, including the Commission on Civil Rights, the EEOC, the Legal Services Commission, the International Trade Commission, and the U.S. Trade Representative.

Senator SHELBY's and my No. 1 priority is making sure that 300 million Americans who work hard and play by the rules are safe from terrorism and violent crime. We also want to protect jobs in our country. So we are the basic investors in innovation through education and through promoting an innovation-friendly government, making strategic investments in research and education in science and technology, keeping America No. 1 in science and also No. 1 in the space exploration program.

We want to create jobs in America that will stay in America. However, we, too, are fiscal stewards of the public purse and, therefore, accountability has been a hallmark of our bipartisan relationship. We do stand sentry against waste, fraud, and abuse with strong fiscal accountability and stewardship of hard-earned taxpayers' dollars.

I wish to take a few minutes to talk about keeping America safe. The CJS bill provides $27.4 billion for the Justice Department. We actually went above the President's request by $300 million because we wanted to make an extra effort to protect our homeland and protect our hometowns.

This bill is one of the most important sources of Federal funds for State and local law enforcement, for our frontline men and women of our State and local police forces. It is the cops on the beat who protect our families and at the same time they are asked to do more.

We are providing $3.2 billion to support that thin blue line to make sure the police are safe with equipment they need, such as bulletproof vests and also new technologies.

''CSI'' is not only a great TV show, but we think CSI should be funded in the Federal budget to use the best of science to catch the worst of the criminals.

We also fund Byrne formula grants, and this bill will provide $510 million for State and local police operations to do their job.

We are funding important programs in juvenile justice, which are very key programs of intervention and mentoring, but also very strong programs for antigang efforts—$407 million.

We also want to prevent, protect, and prosecute when it comes to violence against women, whether it is domestic violence, sexual assault, rape, or stalking—over $435 million—the highest level of funding ever.

We also have very important Federal law enforcement. All of us know and love the FBI. This bill will provide $7.9 billion to keep us safe from violent crime and also white collar crime, investigating financial and mortgage fraud.

I want to acknowledge the role of Senator SHELBY, who is an authorizer on the Banking Committee and a member of this Appropriations Committee. He has taken on the issue of mortgage fraud and wanted it to be thoroughly investigated. We have done that through the FBI.

Many people don't realize, though, that after 9/11, when everyone was clamoring for something like the MI–5, such as the British have, we said: Three cheers for the British way, but we want a USA way, so we created an agency within an agency where the FBI is part of our most significant fight against terrorism.

We also fund the Drug Enforcement Agency to fight international narcoterrorists and drug kingpins. This bill provides $2 billion to do it.

I am very proud of the FBI because in the last few weeks their work has led to the arrest of two terrorism suspects who planned to blow up buildings in Texas and in Illinois. While they were working hard, the efforts of the DEA led to the arrest of drug kingpins who were shipping 95 kilograms into New York City.

We also have the Bureau of Alcohol, Tobacco, and Firearms and the Marshals Service, each of which has been funded at $1 billion-plus.

Our U.S. attorneys, who are the prosecutors of Federal crimes, have been provided $1.9 billion, a significant increase.

Once we catch and prosecute these criminals, there has to be Federal prisons, and we want to make sure our communities are secure and our prison guards are safe. This is one of the tattered areas of neglect, and we are very concerned about the safety of our prison guards. This bill provides $6.1 billion to upgrade, where necessary, the protective devices to ensure criminals are held securely—acknowledging their rights, but also the rights of those who guard them need to be kept too. Their first right is the right to security, guaranteed by their own government.

We look to protecting our children and our communities, and when it comes to protecting our children, crimes have gotten more sophisticated in terms of the Internet and other things that are used to lure children into terrible criminal situations. We have provided over $265 billion to deal with the issue of sexual predators, and we will continue that fight.

While we are busy fighting crime and protecting our children, we also need to protect America's jobs, and this is where science and innovation come in with an amazing race to keep America competitive.

This bill provides $880 million for the National Institute of Standards and Technology and, particularly, $70 million for the new Technology Innovation Program and $125 million for the Manufacturing Extension Partnership, so that we can keep manufacturing in our country. We also want to do the basic research that is needed for the new ideas that will come up with the new products for the new jobs.

This bill provides $6.9 billion for the National Science Foundation, and for NOAA we provide $4.7 billion, including $980 million for our weather service and $870 million for our fisheries.

This bill also funds our space program: $18.7 billion for NASA. In the space program, we don't agree with the House strategy; we agree with the White House strategy. The House strategy includes $500 million for the NASA exploration program. We believe we need to meet our obligations to fully fund the space shuttle and the space station. For the space shuttle, we need to make sure we keep our astronauts safe and our space station is able to continue the work we have begun. We also need to invest in the next generation of space vehicles at $3.6 billion.

It is very important we meet our obligations, our international obligations, as well as our obligations to our astronauts and to our Earth-bound scientists. However, if you meet those scientists, they are not bound by Earth very much. They are continually breaking barriers.

We know the House withheld money while waiting for the Augustine report. Well, we have the Augustine report. We know where the President wants to go. We know what the key advisers in the astronaut community have recommended to us—the gallant leaders from the past, such as Buzz Aldrin and John Glenn, to the most contemporary right now. I might add we have a space Senator in Senator BILL NELSON, one of our authorizers. So we have worked hand-in-hand with our authorizers.

We are also working very hard in terms of protecting our intellectual property. We have been concerned through the Bush administration—well, the Clinton administration, the Bush administration, and now we want to deal with this during the Barack Obama administration—that we have too many backlogs at our Patent and Trademark Office. We want to reduce those. American ingenuity should not have to stand in long lines to get their patents to protect their intellectual property and to come up with the products that will go into the global marketplace and at the same time create jobs here.

We are also very proud of what we do to protect our planet, and what we have done through NASA Earth science—$1.4 billion—and also what we are doing in weather satellites—$1.2 billion—which are very important global warming tools. If we can better protect and warn, we can save lives and save money.

The CJS bill ensures our constitutional obligation to do the 2010 census. We provide $7 billion to the Census. We are working hand-in-glove with Secretary Locke to make sure the Census Bureau is well organized to be able to do this very important job.

There are many more things we can talk about, but I know my colleague, Senator SHELBY, wants to discuss the bill, and our good friend from Arizona has an amendment. So, Mr. President, I will amplify these other parts of the bill as we move forward.

I know Senator SHELBY will return in a moment or two, so with deference and the usual courtesy and comity, if the Senator from Arizona wishes to offer his amendment, and then when Senator SHELBY returns he can make his statement, we will just keep the business of the Senate moving as promptly and as well as we can.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Arizona.

AMENDMENT NO. 2629

Mr. MCCAIN. Mr. President, I have an amendment at the desk and ask for its immediate consideration—amendment No. 2629.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Arizona [Mr. MCCAIN] proposes an amendment numbered 2629.

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

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

The amendment is as follows:

(Purpose: To prohibit the use of funds appropriated under this Act for the purpose of preventing individuals, wholesalers, or pharmacists from importing certain prescription drugs)

On page 202, between lines 15 and 16, insert the following:

SEC. 530A. None of the funds made available in this Act for the Department of Justice may be used to investigate or enforce Federal laws related to the importation of prescription drugs by individuals for personal use, by pharmacists, or by wholesalers or to bring an action against such individuals, pharmacists, or wholesalers related to such importation: *Provided*, That the Department of Justice or its subagencies do not have a reasonable belief that the prescription drug at issue violates the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.): *Provided further*, That the prescription drug at issue is not a controlled substance, as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802), or a biological product, as defined in section 351 of the Public Health Service Act (42 U.S.C. 262).

Mr. MCCAIN. Mr. President, I say to the distinguished manager, the Senator from Maryland, that I will be glad to interrupt my amendment upon the return of the Senator from Alabama, if he wishes to speak, and then I will continue after that. I thank the Senator from Maryland for her hard work and excellent explanation of the legislation before the Senate.

This amendment would lower health care costs for Americans immediately. It would provide access to safe, less expensive imported prescription drugs. For far too long, powerful lobbyists from the pharmaceutical industry have stood in the way of Americans' access to affordable imported drugs. Their enormous political campaign contributions made in return for political support of their agenda and their secret unsavory deal with the White House in exchange for their support of the health care reform have further contributed to the American people being prevented from accessing cheaper prescription drugs.

Instead, Americans continue to pay 60 percent or higher for the same prescription drugs that are sold in Canada. This amendment is necessary because Americans need access to lower cost drugs now. They need it now due to these difficult economic times. We all know about unemployment. Americans' salaries are being cut, household budgets are slim, and millions of Americans are struggling to make their

monthly mortgage payments. For these reasons, and so many more, Americans should not be forced to wait another day to purchase safe and affordable prescription drugs from outside the United States. While Americans all over the country are having to choose between their next meal and their necessary prescriptions, the large pharmaceutical companies continue to pressure Congress to delay consideration of any legislation to allow the importation of safe and lower priced prescription drugs.

I would like to also point out this is legislation on an appropriations bill, something I have long opposed, and still oppose. But there has been an unusual process taking place, and that process is one which has forced me to come to this situation. On two separate occasions the majority leader of the Senate assured me that legislation would be taken up before the Senate, and both times he has changed his mind. The majority leader resisted consideration of an amendment to allow for the importation of prescription drugs during debate on the Family Smoking Prevention and Tobacco Control Act.

At the time, the majority leader said on the Senate floor:

> This is something that should have been done, I am sorry to say, years ago, not weeks ago.

This issue is important legislation. If it should have been done years ago, then why wasn't it brought up for consideration immediately after the tobacco bill in June? While the standalone bill to allow importation—S. 1232—was placed on the Senate's calendar on June 11, 2009, there has been no further effort by the majority leader to call it up for consideration. Instead, he sent me a letter stating:

> I committed to take up legislation that would permit the safe importation of lower-cost prescription drugs as soon as practicable.

The practicable time was back in June. There is no practical reason to prevent the majority leader from calling up this bill for a vote at any time.

I was told verbally by the majority leader as short a time as 3 weeks ago that upon the completion of consideration of the Defense appropriations bill that this legislation would be brought to the floor of the Senate. Then a week later I was told, no; that is not going to be the case. So I have been waiting for ''as soon as practicable,'' and so have millions of Americans who are looking for cheaper alternatives to the high-priced prescription drugs.

The majority leader also stated in his letter:

> If this issue is not addressed during the full Senate's consideration of comprehensive health reform, I guarantee that I will move to proceed to S. 1232 before the end of the year.

The majority leader of the Senate assured me it would be taken up after completion of the Department of Defense appropriations bill, which we have completed. Given the fact that it is possible that the health care reform bill will be brought up under a truncated pressure timeline, I have little faith that real, in-depth consideration of prescription drug import legislation will come about; therefore, I have no choice but to bring this issue up today as an amendment to this appropriations bill.

In the 2008 election cycle, pharmaceutical companies gave almost $30 million in campaign contributions to Members of Congress. Just this year, according to an article published in The Hill, the prescription drug industry has given more than $1 million to Republicans and Democrats, and the companies whip up their protector in Congress each time we bring forward legislation to help Americans get the imported prescription drugs they need.

Earlier this year, I read an e-mail sent by the top lobbyist for Pharmaceutical Research and Manufacturers of America, known as PhRMA—this was back in June—which stated:

> The Senate is on the bill today. Unless we get some significant movement, the full blown Dorgan or Vitter bill will pass. We are trying to get Senator DORGAN to back down, calling the White House, and Senator REID. Our understanding is that Senator MCCAIN has said he will offer regardless. Please make sure your staff is fully engaged in this process. This is real.

That was an e-mail from a lobbyist of PhRMA, which has given millions and millions in campaign contributions.

Guess what. In the immortal words of Jack Nicholson: I'm back. I am back on the Senate floor, trying to help millions of Americans who have lost their jobs, struggling to put food on the table, by giving them the opportunity to save on their prescription drugs immediately.

Recently, the White House struck a deal with a pharmaceutical company to further protect its profits. The deal was bragged about by the head of the company's trade association, who cashed in for millions of dollars once he wrote the Medicare prescription drug benefit legislation as a Congressman. He was quoted in an article in the New York Times, published August 6, 2009, stating that the White House ''wanted a big player to come in and set the bar for everybody else.''

The same article stated:

> Mr. Tauzin said the White House had tracked the negotiations throughout, assenting to decisions to move away from ideas like the government negotiation of prices or the importation of cheaper drugs from Canada. The $80 billion in savings would be over a 10-year period.

Analyze that comment by the head lobbyist of one of the most powerful lobbies in Washington. He is saying the White House agreed to move away from—in other words, not support—ideas such as government negotiation of prices. Government negotiation of prices is absolutely necessary. We did it in the prescription drug bill, and it has reduced costs. In other words, the pharmaceutical companies would have to compete for Medicare contracts. One would think that is an obvious solution to bringing down costs.

The second, of course, is the importation of cheaper drugs from Canada. Here everybody is talking about reducing health care costs. We know that importation of less expensive drugs would save health care costs for the American consumer. But the White House apparently, according to Mr. Tauzin, agreed they would not support importation of less expensive drugs from Canada—a remarkable comment. You know, people wonder why the tea parties are going on, why the approval rating of Congress is so low—amazing. The Fraser Institute found in 2008 that Canadians paid on average 53 percent less than Americans for identical brand-name drugs. Specifically, the institute found that the most commonly prescribed brand-name drug, Lipitor, is 40 percent less in Canada, Crestor is 57 percent less in Canada, and the popular arthritis drug Celebrex is 62 percent less expense in Canada. Americans would love a 60-percent-off coupon for prescription drugs and deserve such a discount now more than ever.

I have been working on this issue for many years, and I will continue to do so. Americans should not have to wait a day longer for relief from higher prices for drugs. Inexplicably, the majority leader keeps delaying consideration of this needed legislation, which has now forced me to offer an amendment on the current appropriations bill. However, I believe it is necessary to protect all Americans' interests in obtaining affordable prescription drugs. The amendment states that no funds can be used to prosecute those who seek to import prescription drugs that have been approved by the FDA. If the big drug companies are getting an $80 billion savings, shouldn't we give a savings to American consumers? Why not now?

Again, I want to say there is going to be a point of order raised on this bill, and with righteous indignation people will say it doesn't belong on an appropriations bill. We just finished a Defense appropriations bill loaded—and I will have a list of them—with unauthorized appropriations on that bill. Every appropriations bill we take up has unauthorized appropriations, ranging from $300,000 for a museum in Nebraska to the addition of C–17s for $2.5 billion. The argument that somehow we should not be taking up this legislation on this bill flies in the face of what has been common practice around here, even though I do not agree with it.

Let me say this, too. If I had full and complete confidence that this amendment would get a full and complete airing as an amendment on the health care bill, I would be glad to withdraw this amendment. I will be glad to withdraw this amendment if we have assurance this amendment will be taken up on the health care bill. There are all kinds of things that are going to be

done in passage of the health care reform legislation—so-called—on the floor of the Senate.

I see my friend from North Dakota here. I have appreciated his efforts for a long time. He and I have been working on this for a long time. It is a fact that I received the word of the majority leader that this bill would be taken up and that has not happened. That has happened twice. I must say it has never happened to me before in the years I have been a Member of the Senate.

I ask unanimous consent to have printed in the RECORD the New York Times article of August 6, 2009, ''White House Affirms Deal on Drug Costs.''

I also ask unanimous consent to have printed in the RECORD the letter from Senator REID to Senator SNOWE, Senator DORGAN, and to me.

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

[From the New York Times, Aug. 6, 2009]

WHITE HOUSE AFFIRMS DEAL ON DRUG COST

(By David Kirkpatrick)

WASHINGTON.—Pressed by industry lobbyists, White House officials on Wednesday assured drug makers that the administration stood by a behind-the-scenes deal to block any Congressional effort to extract cost savings from them beyond an agreed-upon $8o billion.

Drug industry lobbyists reacted with alarm this week to a House health care overhaul measure that would allow the government to negotiate drug prices and demand additional rebates from drug manufacturers.

In response, the industry successfully demanded that the White House explicitly acknowledge for the first time that it had committed to protect drug makers from bearing further costs in the overhaul. The Obama administration had never spelled out the details of the agreement.

''We were assured: 'We need somebody to come in first. If you come in first, you will have a rock-solid deal,''' Billy Tauzin, the former Republican House member from Louisiana who now leads the pharmaceutical trade group, said Wednesday. ''Who is ever going to go into a deal with the White House again if they don't keep their word? You are just going to duke it out instead.''

A deputy White House chief of staff, Jim Messina, confirmed Mr. Tauzin's account of the deal in an e-mail message on Wednesday night.

''The president encouraged this approach,'' Mr. Messina wrote. ''He wanted to bring all the parties to the table to discuss health insurance reform.''

The new attention to the agreement could prove embarrassing to the White House, which has sought to keep lobbyists at a distance, including by refusing to hire them to work in the administration.

The White House commitment to the deal with the drug industry may also irk some of the administration's Congressional allies who have an eye on drug companies' profits as they search for ways to pay for the $i trillion cost of the health legislation.

But failing to publicly confirm Mr. Tauzin's descriptions of the deal risked alienating a powerful industry ally currently helping to bankroll millions in television commercials in favor of Mr. Obama's reforms.

The pressure from Mr. Tauzin to affirm the deal offers a window on the secretive and potentially risky game the Obama administration has played as it tries to line up support from industry groups typically hostile to government health care initiatives, even as their lobbyists pushed to influence the health measure for their benefit.

In an interview on Wednesday, Representative Raúl M. Grijalva, the Arizona Democrat who is co-chairman of the House progressive caucus, called Mr. Tauzin's comments ''disturbing.''

''We have all been focused on the debate in Congress, but perhaps the deal has already been cut,'' Mr. Grijalva said. ''That would put us in the untenable position of trying to scuttle it.''

He added: ''It is a pivotal issue not just about health care. Are industry groups going to be the ones at the table who get the first big piece of the pie and we just fight over the crust?''

The Obama administration has hailed its agreements with health care groups as evidence of broad support for the overhaul among industry ''stakeholders,'' including doctors, hospitals and insurers as well as drug companies.

But as the debate has heated up over the last two weeks, Mr. Obama and Congressional Democrats have signaled that they value some of its industry enemies-turned-friends more than others. Drug makers have been elevated to a seat of honor at the negotiating table, while insurers have been pushed away.

''To their credit, the pharmaceutical companies have already agreed to put up $80 billion'' in pledged cost reductions, Mr. Obama reminded his listeners at a recent town-hall-style meeting in Bristol, Va. But the health insurance companies ''need to be held accountable,'' he said.

''We have a system that works well for the insurance industry, but it doesn't always work for its customers,'' he added, repeating a new refrain.

Administration officials and Democratic lawmakers say the growing divergence in tone toward the two groups reflects a combination of policy priorities and political calculus.

With polls showing that public doubts about the overhaul are mounting, Democrats are pointedly reminding voters what they may not like about their existing health coverage to help convince skeptics that they have something to gain.

''You don't need a poll to tell you that people are paying more and more out of pocket and, if they have some serious illness, more than they can afford,'' said David Axelrod, Mr. Obama's senior adviser.

The insurers, however, have also stopped short of the drug makers in their willingness to cut a firm deal. The health insurers shook hands with Mr. Obama at the White House in March over their own package of concessions, including ending the exclusion of coverage for pre-existing ailments.

But unlike the drug companies, the insurers have not pledged specific cost cuts. And insurers have also steadfastly vowed to block Mr. Obama's proposed government-sponsored insurance plan—the biggest sticking point in the Congressional negotiations.

The drug industry trade group, the Pharmaceutical Research and Manufacturers of America, also opposes a public insurance plan. But its lobbyists acknowledge privately that they have no intention of fighting it, in part because their agreement with the White House provides them other safeguards.

Mr. Tauzin said the administration had approached him to negotiate. ''They wanted a big player to come in and set the bar for everybody else,'' he said. He said the White House had directed him to negotiate with Senator Max Baucus, the business-friendly Montana Democrat who leads the Senate Finance Committee.

Mr. Tauzin said the White House had tracked the negotiations throughout, assenting to decisions to move away from ideas like the government negotiation of prices or the importation of cheaper drugs from Canada. The $80 billion in savings would be over a 10-year period. ''80 billion is the max, no more or less,'' he said. ''Adding other stuff changes the deal.''

After reaching an agreement with Mr. Baucus, Mr. Tauzin said, he met twice at the White House with Rahm Emanuel, the White House chief of staff; Mr. Messina, his deputy; and Nancy-Ann DeParle, the aide overseeing the health care overhaul, to confirm the administration's support for the terms.

''They blessed the deal,'' Mr. Tauzin said. Speaker Nancy Pelosi said the House was not bound by any industry deals with the Senate or the White House.

But, Mr. Tauzin said, ''as far as we are concerned, that is a done deal.'' He said, ''It's up to the White House and Senator Baucus to follow through.''

As for the administration's recent break with the insurance industry, Mr. Tauzin said, ''The insurers never made any deal.''

U.S. SENATE,
Washington, DC, September 22, 2009.

Senator OLYMPIA J. SNOWE,
Russell Senate Office Building,
Washington, DC.

Senator BYRON L. DORGAN,
Hart Senate Office Building,
Washington, DC.

Senator JOHN MCCAIN,
Russell Senate Office Building,
Washington, DC.

DEAR SENATORS: During consideration of H.R. 1256, the Family Smoking Prevention and Tobacco Control Act, I committed to take up legislation that would permit the safe importation of lower-cost prescription drugs as soon as practicable. Shortly after making that commitment, Senator Dorgan and I began the Rule XIV process on S. 1232, the Pharmaceutical Market Access and Drug Safety Act of 2009.

Unfortunately since taking that step, the Senate has experienced an extremely full legislative agenda that has not permitted me to turn to this important legislation as quickly as I would have liked. In light of the approaching new fiscal year, we have dedicated considerable time to appropriations matters. (On March 24, I received a letter signed by all Senate Republicans telling me it was critical that the Senate dedicate an ''appropriate amount of time'' to pass the twelve appropriations bills.) We have also completed action on the FY2010 National Defense Authorization Act, a bill to extend the solvency of the Highway Trust Fund and the unemployment insurance program, as well as a number of executive nominations.

Passing S. 1232 in the Senate will not be easy. Senate action on many legislative items has taken significantly longer than one would expect, even for measures that ultimately pass by a broad bipartisan vote. Numerous objections by Senate Republicans have forced the Senate to jump through procedural hoops that accomplish little more than delaying Senate action. Actions that have been taken by consent with little or no debate now take many days. Further complicating passage of this legislation is the fact that during its markup of comprehensive health reform the HELP Committee considered and defeated an effort to attach importation language to the underlying bill.

Notwithstanding these obstacles, I stand by my earlier commitment to make sure the Senate considers S. 1232 as soon as practicable. If this issue is not addressed during the full Senate's consideration of comprehensive health reform, I guarantee that I

will move to proceed to S. 1232 before the end of the year.

Sincerely,

HARRY REID,
Majority Leader.

Mr. MCCAIN. Mr. President, I wish to say again that we have been told time after time that this legislation would come before the Senate. It has not. I do not know what process the majority leader will use—reconciliation, fill up the tree, vote on cloture, make this amendment nongermane. I have no confidence. If I had the confidence that this amendment would be taken up in a regular order fashion and that the full Senate would vote on it on the health reform bill, I would have some confidence we could get it done. In the absence of that, I will seek a vote on this amendment.

If there is a budget point of order on this amendment, let no one be fooled: It is not because they do not want to violate the budget rules of the Senate, because they violated them in every possible way in previous appropriations bills, to the tune of billions of dollars.

I yield the floor.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. DORGAN. Mr. President, let me spend a few moments talking about this issue of reimportation of prescription drugs and the history of it and the work many of us have done together, a large group of Members of the Senate, including Senator MCCAIN, working on this issue.

Senator MCCAIN has offered an amendment, No. 2629, which he has just finished discussing. As I understand the amendment, it would prohibit the use of funds appropriated under the act for preventing individuals, wholesalers, or pharmacists from importing certain prescription drugs. That is in the title. It does have, as I think Senator MCCAIN suggested, perhaps a point of order against it. I do not know whether it is because it would be legislating on an appropriations bill. In any event, whatever the circumstances with this amendment, I was a bit surprised to see this amendment on this bill, but everybody has a right to offer amendments.

Let me say that Senator MCCAIN is a part of a group of us who have worked together. We have worked on a piece of legislation called the Dorgan-Snowe legislation. Senator SNOWE, as the major cosponsor, and many others, including Senator MCCAIN as a cosponsor, have worked on this issue for a long time. The fact is, the appropriate place to address this, in my judgment, is in the health care bill that is going to come to the floor in the next couple of weeks. I have said previously that I fully intend to offer this bipartisan bill as an amendment. We have over 30 cosponsors in the Senate, Republicans and Democrats. It ranges from the late Senator Ted Kennedy, to JOHN MCCAIN and a wide range of Senators on both sides of the political aisle. That has been the support for legislation that I think addresses a very important issue.

Let me describe the issue, if I might. I have in my desk in the Senate two bottles that contain medicine. Actually, these are empty bottles. This is Lipitor. The medicine that would be contained in these bottles is made in Ireland by a company that produces Lipitor. It is the most popular cholesterol-lowering drug in America by far. It is made in Ireland, in a plant that is inspected by the FDA, and the medicine is then sent all around the world. These two bottles, as you can see, are identical. These two bottles contained identical tablets, 20 milligrams of Lipitor made in the same place, so it is the same manufacturing, the same pill, put in the same bottle, made by the same company. The difference? One is shipped to Canada, one is shipped to the United States. Difference? Price. Here is the one that was shipped to Canada; this is $1.83 per tablet. This was sent to the United States, $4.48 per tablet. The only difference is price. Why is that the case? Because the American people are charged the highest prices for brand-name prescription drugs in the world, the highest prices in the world for brand-name drugs. In this case, we paid $4.48 per tablet; someone else paid $1.83. It doesn't matter whether it is Canada. It could be England, Italy, France, Germany, Spain—we pay the highest prices in the world, and it is unfair.

The question is not, Is there a problem? Of course there is a problem. We have a whole lot of folks in this country who cannot figure out how they are going to afford to pay for their groceries and their medicine, so they go get their medicine first at the pharmacy in the grocery store and figure out how much they can eat later. Of course this is a problem.

I have described the guy who sat on a straw bale once at a farm a while back, 80 years old, who told me in a little meeting we had in a farmyard: My wife has fought breast cancer for 3 years. She is in her seventies. And we have spent all of those 3 years driving to Canada to try to buy Tamoxifen where it is sold for 80 percent less—an 80 percent lower price in Canada for the identical prescription drug. So my wife and I are trying to drive up and get Tamoxifen in Canada.

The reason they can do that is, apparently at the border, a small amount of personal use, up to 30 days or 60 or 90 days personal use of prescription drugs will be allowed to be brought over without a hassle.

But the question is what about the rest of the American people who cannot drive to the border or go to another country and access the same prescription drugs, same pill put in the same bottle by the same company who decided to charge the American people the highest prices in the world? What about those people?

My point is this: We are going to have a big health care bill on the floor of the Senate sometime in the next few weeks. Oh, it has been through this committee and that committee. It has been on a long, tortured trail. Lord knows every single day in the press we read the next little news item about who said what about this.

One way or another we are going to have some kind of health care reform on the floor of the Senate. Will it pass? Will it be omnibus? Will it be comprehensive? I do not know any of those things. I do know this: that the Gang of 6 and the gang in the Finance Committee or the gang in the HELP Committee are going to become a Gang of 100 or 100 gangs of 1 when it gets to the floor of the Senate. Everybody is going to have their amendments because most Members of the Senate have not had an opportunity to weigh in on health care at this point with their own views and their own amendments. They are not on the committee, not part of a small gang. Let me say, on behalf of myself and I think Senator SNOWE, it is the Snowe-Dorgan legislation with respect to prescription drug reimportation, which includes Senator MCCAIN as a cosponsor, that when health care comes to the floor of this Senate, you can count on it, that there is going to be an amendment and there is going to be a vote on the issue of the prices of prescription drugs.

Perhaps there are some people who do not want it. I understand they do not want to have a vote on it. But in my judgment, there cannot be credible efforts to address health care if you do not address the issue of health care costs, the relentless rising cost of health care.

Part of that, not an insignificant part, relates to the question of the relentless runup of prescription drug costs every single year. Take a look at the increased prices for prescription drugs every year and then think about the people out there who are trying to figure out: How do I pay for this?

I understand senior citizens have the opportunity, under Part D of Medicare, to have some drug coverage. I understand there is a problem with that, there is what is called a doughnut hole in the Washington lexicon. I also understand that someone made a deal with the pharmaceutical industry for $80 billion over 10 years, which is a relatively small part of their gross revenues, in order to fill part of the doughnut hole with 50 percent off on brand-name drugs.

I understand all that. I was not a part of it, nor was anybody I know of in this Chamber. The question is, What about all the rest of the American people and the fact that they are now charged the highest prices in the world for brand-name prescription drugs? Is it fair? I say no.

We will offer an amendment. My colleague says he was promised and he was concerned about that. I understand all that. All I am saying is, we are going to have this debate, this amendment, and this vote. It is going to be on health care. That is where it ought to be. It ought to be on the health care bill.

I know that when we have this discussion, we are going to have people say: If you do not allow the prescription drug folks, the pharmaceutical industry, to charge these prices in our country, they will do less research into finding cures for these deadly diseases.

You know what, the fact is they spend more money on promotion, marketing, and advertising than they do on research. That is a fact. I mean you get up in the morning and turn the television set on, perhaps while you are brushing your teeth or something, and then listen to the ads. The ads push at you every single day: Go ask your doctor today. It is Wednesday. Ask your doctor, is the purple pill right for you?

I do not know what the purple pill is, but it makes you feel like you should go ask somebody if I should be taking the purple pill.

Go ask your doctor whether you might need Flomax. Go ask your doctor what you ought to be getting, what you ought to be taking that you now do not know about or are not taking.

All these things are pushed at consumers in circumstances where the only person who can prescribe that prescription drug is a doctor who has decided you need it for your health. Yet every single day, relentlessly across this country on television, in the journals and newspapers and publications it says: Go check with your doctor. Ask your doctor if you should be taking this medicine.

What about cutting back on some of that and reducing the price of prescription drugs? What about that? Let me make one other point, if I might. My colleague indicated he has offered this, which is a funding limitation on prescription drugs. The fact is, this has been a long and difficult trail to pass legislation.

I understand. Were I working for the pharmaceutical industry, I would understand why you want to retain this little piece in Federal law that says: The only entity that can reimport or import drugs into this country is the company that manufacturers them. I understand why they want that to be the case. Because it allows them to price, in this country, however they want to price.

But we are told constantly this is a new economy, a global economy. If it is a global economy, then what about allowing the American people the freedom to access that global economy to find the identical FDA-approved prescription drug where it is sold for half the price?

They say: Yes, but you know what, if we do that, we are going to open it up to counterfeit drugs and so on. Guess what. Europe has been doing this for 20 years. It is something called parallel trading. In Europe, if you are in Germany and want to buy a prescription drug from France, if you are in Spain and want to buy a prescription drug from England, that is not a problem. They have a plan that is called parallel trading. It has been going on for 20 years, and there are no counterfeit issues of any significance at all.

Europe can do it and we cannot? We cannot keep track of this? The legislation that I and Senator SNOWE and many others, including Senator MCCAIN, have put together carefully has all kinds of safety measures that will dramatically improve the safety of the prescription drugs that are now sold.

It requires pedigrees be established on batch lots so you can track everything back. Everything. The only proposal we are suggesting the American people be given the freedom to do is to access that FDA-approved drug—yes, only FDA-approved drugs—only from countries in which the chain of custody is identical to ours and as safe as ours is. That is all we are talking about.

But that does it the right way. That says: Here is a plan. It funds the FDA to make certain that the drug supplies are safe and so on. This is the right way to do this. That is why we have taken a long time to put this together. It is a piece of legislation that has all the elements you would want to have that gives the American people the freedom to get lower priced drugs, FDA-approved drugs where they are sold and, at the same time, because they would have that freedom, would put downward pressure on drug prices in this country because the pharmaceutical industry would be required to reprice their drugs in the United States.

Let me say, as I always have to say, I do not have a grief against the pharmaceutical industry. I think it is a great industry. I think it produces wonderful, miracle prescription drugs that if taken can keep you out of an acute care hospital bed, which would be far more expensive. Prescription drugs, if taken, in many cases, can manage a disease that otherwise would have you in a debilitated condition.

I appreciate the research they do. I appreciate the new drugs they develop. Let me say this, that a substantial amount of work, with respect to the development of new drugs, is done with public funding, taxpayer dollars, through the National Institutes of Health, the knowledge from which then goes to the pharmaceutical industry to be able to use to create these drugs. That is a part of it.

Another part of it is the research they do themselves. Good for you, I say. My grief is not against an industry. I do not want to tarnish this industry. All I want to say is: We deserve fair prices. This country and the consumers in this country deserve fair prices.

We have been trying for 10 years to get this done. If we bring health care reform to the floor of the Senate and say: We are going to do something about health care costs and prices and fail to do something about prescription drug costs, in which the American people are required to pay the highest prices for brand-name drugs, then, in my judgment, we will have failed miserably.

It is my full intention that when we have health care on the floor, which I expect to be within a week or 2 weeks or whenever it comes, but it is coming for sure, I will be here, and I will fully expect and demand the opportunity to offer this amendment because there are 30 Members of the Senate, Republicans and Democrats alike, who have done the work to put together the bill that has all the safeguards and, finally, at long last, will give the American people what they deserve; that is, fair pricing on prescription drugs.

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

Mr. DORGAN. Of course, I will yield.

Mr. MCCAIN. I am very grateful for the leadership Senator DORGAN has shown on this issue for many years and it has been a pleasure and an honor to work with him on that and many other issues.

I ask my colleague, does the letter that was sent by the majority leader to you and to me and to the Senator from Maine, Ms. SNOWE—I know you have read it—does it concern you that the last paragraph of the letter says:

> Not withstanding these obstacles, I stand by my earlier commitment to make sure the Senate considers S. 1232 as soon as practicable.

And then this is the question I have for the Senator from North Dakota.

> If this issue is not addressed during the full Senate's consideration of comprehensive health reform, I guarantee that I will move to proceed to S. 1232 before the end of the year.

My question to the Senator from North Dakota is: Why would there be any question in the majority leader's mind that you or I and Senator SNOWE would let a health reform bill go to the floor and be voted on without it being passed? It seems to me, and may I say, because I have been told twice by the majority leader we would take it up—and those commitments have been reversed—would it not concern you a little bit when it says: '' . . . if this issue is not addressed during the full Senate's consideration of comprehensive health reform . . .''

That is my question. That is what I am concerned about, that parliamentary procedures would be used. You and I have seen it before. The tree filled up. Cloture invoked, et cetera, where there have not been amendments that were clearly important to that legislation, not allowed to be considered.

That is my question to my friend from North Dakota.

Mr. DORGAN. Let me say to Senator MCCAIN that I expect the job of majority leader is a pretty tough job. I have watched from Bob Dole on, Tom Daschle, and so many majority leaders and minority leaders try to run this place. It is pretty hard to run. Trying to figure out a schedule is pretty difficult. So I respect the difficulties of juggling all these things.

With respect to the specific letter Senator MCCAIN referred to, Senator MCCAIN, I, and Senator SNOWE all talked to the majority leader about this issue when the tobacco bill was on the floor of the Senate because we were fully intending to offer our prescription drug reimportation bill.

The majority leader did say to us, and then put it in writing, did say to us: I will guarantee you that you will get that up on the floor of the Senate. So that was a commitment by the majority leader. And he understands that commitment.

When I saw the letter he wrote, I went to him immediately, and he and I talked about that. Because I indicated to the majority leader: You have indicated that as soon as practicable, or perhaps at the end of the year.

I said to the majority leader: You should understand that if it is not up before health care, it has to be offered on health care. Because that is exactly where it fits. Nobody can come to the floor and say: We have to do health care. We have to try and control costs and put some downward pressure on prices. But, by the way, you cannot offer a piece of legislation that would put downward pressure on prescription drug prices. I said: That cannot be the case.

He understood and said: I understand that. That is going to be at the front end of this debate on health care. Based on that representation, I feel confident, I would say to Senator MCCAIN, I understand the confusion in the reading of the letter, the writing of the letter, but I feel confident, having talked to Senator REID, that we are going to have ample opportunity, right at the front end of this debate about health care, to have a full debate, to have a vote up or down, which is what we need to do, obviously. I think everyone in this Chamber, every Republican, every Democrat, needs to be on record: How do they feel about their consumers paying the highest prices for prescription drugs in the world? How do they feel about a bill we put together that has pedigrees and batch lots, all the safety so our consumers can have the freedom to access these lower priced drugs?

I think we can do that.

Mr. MCCAIN. Would you not feel better if the letter said—I know I would feel better if the letter said: I expect this issue to be brought up in the health reform bill.

Instead, there is a loophole, with all due respect, that if it isn't addressed during the full Senate's consideration, ''I guarantee I will move to it before the end of the year.'' Each day going by, seniors and, in fact, all citizens are paying a higher price for prescription drugs. Frankly, we should never have made that agreement when the tobacco bill was taken up because we could have passed it. Today seniors could be paying as much as 60 percent less for their prescription drugs. But we know what happened. The pharmaceutical companies weighed in with all of their clout. I urge the Senator from North Dakota to go back and get this language changed. The majority leader looked me in the eye and said: We will take this up after we finish the Department of Defense appropriations bill. And then decided not to do it. Maybe the Senator from North Dakota understands why I am skeptical about the interpretation of a letter that could be interpreted so that we don't take it up in the health care reform bill.

Mr. DORGAN. Mr. President, I understand the anxious state of all of us to do what we have worked on for so long. I understand. I also understand that the letter probably could have been more artfully drawn. I understand from my conversations with Senator REID, the majority leader, that he fully understands and expects us to be planted on the floor when health care comes here and to offer our amendment and have a full debate and vote. If there is an attempt when we debate health care to decide that 30 of us Republicans and Democrats somehow don't have the opportunity we have been promised on the issue of prescription drug prices, in my judgment they are going to have an awful time getting any health care bill through this place. Because you can't say to me or to anybody else: We will do the bill we want to do and, by the way, prescription drug prices that are going up by double digits, we are not going to give you a shot at that.

Let me make one final representation. I said when I started, it is hard to schedule this place. I understand that. The Senator from Arizona knows we have had noncontroversial bills where we couldn't even get past a motion to proceed without having a filibuster to something that is noncontroversial. If I am majority leader, I am thinking this is not easy to do. I am sympathetic to the job he has to try to do all these things. I am convinced Senator REID will keep the commitment he made to us. I am convinced that commitment will be kept when we get health care on the floor. I don't want it to be in the middle or toward the end. I want to be here front and center at the front end because the bill we have put together is a strong bill dealing with a very important issue.

Mr. MCCAIN. If the Senator will yield further for one final question.

Mr. DORGAN. I am happy to yield.

Mr. MCCAIN. I have great sympathy for attempting to schedule legislation in this body. I think our friend Trent Lott maybe didn't invent it, but he used to say that it is like herding cats, conducting business in the Senate. I agree with that.

I know the Senator from North Dakota is aware that no matter what the problems are, if the majority leader says: I will take up this bill, then you have to take his word. My question to the Senator from North Dakota is, can we get a commitment from the majority leader that parliamentary procedures will not be used to block consideration of the issue of importation of pharmaceutical drugs?

Mr. DORGAN. Mr. President, I believe that commitment has already been made by the majority leader.

Mr. MCCAIN. The letter is ambivalent.

Mr. DORGAN. I understand that. That is why I said I think the letter perhaps is not artfully drafted with respect to that last paragraph. I believe that commitment has been made to me because I went to the majority leader following the release of that letter. I have found over a long period that when the majority leader gives me a commitment, I believe he will keep the commitment.

Mr. MCCAIN. I have not had that experience.

Mr. DORGAN. I understand, but I believe the Senator will have that experience when health care comes to the floor and he and I are on the floor with our colleague Senator SNOWE and others pushing for a solid piece of legislation that has broad bipartisan support. The Senator then will understand the commitment was made and the commitment was kept. I believe that will be the case.

Mr. MCCAIN. All I can say to my friend is, if we can get a commitment that parliamentary procedures will not be used to block consideration of an amendment concerning importation of prescription drugs, I will withdraw this amendment from this bill.

Mr. DORGAN. I believe that commitment has been made to me. In any event, we are here on the floor on a Wednesday talking about something I believe is very important, and we have worked on this for a long time. We have spent a lot of time working on it. I don't intend to decide: OK, somebody is going to put up some barriers and that is OK with me. That is all right. And I don't think Senator REID is going to do that. He has made a commitment to me that will not be the case. I am convinced that Senator MCCAIN and I and others who have put this legislation together will have our day, and everybody else will have to stand up and say yes or no. I hope when the roll is called, we have sufficient numbers, finally, at long last, to pass legislation that should have been passed 8 years ago. Again, I appreciate the comments Senator MCCAIN has made this morning. I will have further visits with him.

I know Senator MIKULSKI has a bill on the floor she wishes to manage, and we don't want to be in the way of that.

My view is that we are going to have our bill on this floor with a full debate and an up-or-down vote, and that will come as a result of Senator REID keeping his commitment. I am convinced of that.

I yield the floor.

The PRESIDING OFFICER (Mr. KAUFMAN). The Senator from Arizona.

Mr. MCCAIN. Very briefly, I say to Senator DORGAN, I appreciate his efforts, his leadership. I appreciate everything he has done. We have had the privilege of working together on many issues over the years. I wish to be sure that when the health reform bill comes up, there will not be parliamentary obstacles from that happening. I have seen the will of the majority thwarted on the floor of the Senate by certain parliamentary maneuvers—filling up the tree, for example. The Senator from North Dakota is as familiar as I am with some parliamentary procedures which can be employed by the majority and have been employed when both parties have been in the majority to thwart the ability of Senators to have their issues considered. That is what I want to see, is to make sure that when the health reform bill is before us, we will take it up.

But the sentence reads:

If this issue is not addressed during the full Senate's consideration of comprehensive reform . . .

My question is, why wouldn't it? Why is that sentence necessary? All I can say is that I hope we can get that assurance. If we do, I will withdraw the amendment and allow this appropriations bill to receive full consideration and be passed by the Senate.

Mr. DORGAN. Mr. President, I intend to offer several amendments to the health care bill. I have not had a chance. I am not part of a gang of anything. I wasn't part of the Gang of 6. I am not part of the Finance or HELP Committees. This is my first opportunity. I have some things I think can improve it. If a bill comes to the floor with procedures—and it will not happen—that lock this up and we can't offer amendments, I wouldn't stand for that. I am not going to be a part of that process. My expectation and the representation made to me with respect to this amendment is when that bill comes to the floor, we will have an opportunity to offer amendments. I don't know how you would get health care through the Senate if the proposition would be that somebody says: The Gang of 6, they had their 6 months or 3 months, whatever they did. And the two committees had their opportunity. But the rest of you, sorry, can't do that. In that circumstance, health care would not be passed through the Senate. Perhaps we have tortured this subject to death.

Mr. MCCAIN. We have probably tortured it to death. Considering the fact that reconciliation continues to be held out there as an option by the majority is also a factor about which I have been concerned. All we need is a clarification to make sure there will be no parliamentary obstacles to consideration of the amendment of the Senator from North Dakota, an effort joined by me and Senator SNOWE and others, to allow prescription drugs to be imported into the United States.

I yield the floor.

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

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

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

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

HEALTH CARE REFORM

Mr. BURRIS. Mr. President, my brief remarks this morning are going to be on the cost of our broken health care system.

There have been times throughout our Nation's history when the American people have called upon our elected leaders to make very difficult decisions. This is one of those moments.

The debate over health reform has taken hold of this country and this Congress. We need a public option as part of any reform legislation, and we need it now. But the debate goes on. In House and Senate committee hearings, in townhall meetings, and at dining room tables across America, people are talking about the cost of health care reform. But they are not just talking about dollars and cents. Sometimes Washington forgets that. We worry about taxes, the deficit, and the need to keep Federal spending in check. We are right to debate these issues. But in the swirl of numbers and the cold analysis of insurance profits, we must not forget the extraordinary human cost of our broken health care system.

Nearly 45,000 Americans die every year because they do not have insurance coverage and cannot get quality care. That is one death every 12 minutes. This simply cannot stand in the United States of America. As Members of the Senate, as Americans, and as human beings, we cannot allow this to continue. It is time to take bold action. We must not delay any longer. The American people are waiting—people such as Deborah, a mother from Illinois, who works for a social service agency. Her employer had to cancel health care benefits and cut salaries more than a year ago because the expenses were too high. Deborah had a heart attack in April. Her resulting hospital bills total almost $16,000. She cannot afford the medicine her doctors have prescribed for her. And now she is having trouble paying bills. Her gas and electricity have already been cut off in her home. Next it is going to be the water.

Thankfully, Deborah's children and foster children have health insurance provided under an Illinois program called All Kids. But what if she suffers further complications or another heart attack? What if she loses her home or her job? What will happen to Deborah and her family?

If this Congress does not pass meaningful health care reform, their future is uncertain at best. But if we do act, we can bring Deborah and her family back from the brink of ruin. If we pass health care reform with a public option, Deborah and millions like her will be able to get the quality care they need at a price they can afford.

Under a public plan, health care costs will come down. Perhaps Deborah's employer will be able to restore her insurance coverage. But if not, she will be able to get individual coverage by choosing between an affordable private or public plan. Competition will drive premiums down across the board, making insurance more affordable for every single American. This means even with a preexisting condition, Deborah will not have to worry about finding good coverage at a fair price. She will be able to pay her bills again. In case she needs further treatment down the road, she will not be forced to choose between keeping food on the table or seeking the quality care she deserves. That is what health care reform is with a public option, and that is what could help Deborah.

These reforms would also help working folks such as Scott and Cindy, a self-employed couple from Oak Park, IL. Scott is a carpenter, and Cindy is a freelance writer and editor. They have a combined income that ranges from $50,000 to $120,000 per year, depending on the economy. But Scott has a preexisting condition.

Unlike many people in similar situations, they were fortunate enough to find an insurance company that would cover them. But the costs are extremely high. Premiums run more than $500 a month. Scott is covered by one plan, and Cindy and the kids are on a separate plan, and each one has a deductible of about $5,200 a year. That is the deductible.

That is why Scott and Cindy were so worried when their son broke his arm last summer. It was a bad break, but it is the kind of injury that is common to an active 15-year-old kid. It was not catastrophic, it was not unusual, and no one's life was at stake. But the medical bills totaled about $4,000. Even though Scott and Cindy have insurance, they had to pay every cent of this out of their pockets.

They are underinsured, and they know it. That is why they ration their own health care. I will repeat that: That is why they ration their own health care. Whenever they can skip a doctor's visit, or a checkup, or a minor procedure, they will do so in the interest of saving money. Of course, when their kids need treatment, they make it a priority.

But Scott and Cindy know they will not be able to afford it if either of them gets sick. What will happen to this family if they experience a catastrophic illness? What will happen if their coverage gets dropped, or if the costs continue to go up?

With health care reform, private insurers could no longer discriminate

against Scott's family because of his condition. If they are unhappy with the private insurance, they will have the choice to purchase high-quality public insurance for the whole family. Regardless, their deductible and monthly premiums will be much lower. For the first time, they will not have to worry about Scott's preexisting condition, and they can stop rationing their health care. They will be able to take advantage of preventive care so they can catch potential problems earlier and minimize their chances of getting really sick.

This is what reform with a public option would mean for Scott and Cindy, and for millions of Americans just like them in Illinois and across the country. That is why I will not compromise on the public option. I will repeat that: I will not compromise on the public option because Deborah, Scott, and Cindy need our help. That is why I will not settle for anything less than the real reform the American people deserve. The human cost is too high.

As we move forward, it is important to consider all sides of this contentious debate. But this debate has been going on for nearly a century. Since the days of Teddy Roosevelt, we have been trying to come together and solve this problem. The time for debate is drawing to a close. The time for bold action is upon us now, and our path is clear. The only way to achieve meaningful health care reform and bring costs down is through a public option that creates real competition in the system.

Let me be clear on this—I will be very clear—I will not vote for any health care bill that does not include a public option. I urge my colleagues to join with me, to stand on the side of the American people, and to fight for ordinary folks such as Deborah, Scott, and Cindy, and their families.

We must not delay. We must not let them down.

Mr. President, I yield the floor and 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. KAUFMAN. 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.

Mr. KAUFMAN. I ask unanimous consent to speak as in morning business.

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

AFGHANISTAN POLICY

Mr. KAUFMAN. Mr. President, I rise today to support the comprehensive review of our Afghanistan policy being conducted by the Obama administration. This is the right time for such a review because conditions have changed since the President's strategy was announced on March 27. I have traveled to the region twice since then—first in April and again last month—and can confirm the recent observations of General McChrystal that the Taliban has made inroads in Afghanistan and the situation is deteriorating and serious. At the same time, political dynamics have changed in the region. There have been flawed elections in Afghanistan, and an emboldened Pakistani military has taken actions against elements in the Taliban in Pakistan. In light of these developments, we must give the President the time he needs to review the strategy and reevaluate the mission.

Today marks 8 years since the U.S. military entered Afghanistan, but if there is one message I hope to convey to the American people today, it is that we have not been there in earnest since 2003. After launching a successful NATO campaign against al-Qaida and the Taliban-led government that sheltered it, resources were diverted to Iraq in 2003 before the job was finished. We essentially left Afghanistan to invade Iraq, and the result in Afghanistan was a resurgent Taliban and failure to capture Osama bin Laden.

This was not the first time we left Afghanistan. After resourcing the Afghans throughout the 1980s in their efforts to beat the Soviets, we abruptly ended our support in 1989 after Soviet troops withdrew. We were then absent for 12 years until 9/11.

Historically, and especially since 2003, our commitment to Afghanistan has been wavering and halfhearted. This has created a deficit of trust in the minds of the Afghans, especially among those who have allied with us and faced the prospect of life or death in our absence. I wish to repeat that. This has created a deficit of trust in the minds of Afghans, especially among those who have allied with us and faced the prospect of life or death in our absence.

As we enter the ninth year of the war, it is critical to reassess our strategy so we can get it right. This is why the President's review must be complete and must be comprehensive. It is not just about combat troops or the McChrystal report. Troops are just one part of the puzzle and the report submitted by General McChrystal is just one input. The President must consider multiple perspectives on the political and regional situation from U.S. Ambassador to Afghanistan Karl Eikenberry, U.S. Ambassador to Pakistan Anne Patterson, and the Special Representative for Afghanistan and Pakistan, Richard Holbrooke. He must also weigh broader concerns from the Department of Defense, including overall force structure and other global military requirements. The review will take time. There are many complex issues to deal with in Afghanistan which closely relate to our policy in Pakistan.

The President will present his plan to the American people when he has made his decision. At that time, Congress will be an important part of the process and will hold hearings on the President's plan, as it did with the President's plans in Iraq. Then each Member of Congress will cast the most important vote for any Member of this body: whether to send additional troops abroad and how to protect them. That debate should not be about politics.

I believe we must look at this challenge as a sum of the parts, and I wish to raise two primary questions. The first is about our mission and our objectives, which have been complicated by changes on the ground since March. The second is about waging an effective counterinsurgency strategy and what it would take to meet those requirements in Afghanistan. After we review our mission strategy in Afghanistan, we must also review how it correlates to our strategy in Pakistan. I will take each one of these questions in turn, both to give an indication of the complexity of the decisionmaking process and to share my observations on each subsidiary question.

First, the President must ask: What are our missions and objectives? In March, he presented his mission statement:

> To dismantle, disrupt, and defeat al-Qaida and its safe havens in Pakistan, and to prevent the return to Pakistan or Afghanistan.

He also laid out key objectives: promoting a more capable, accountable, and effective government in Afghanistan, developing increasingly self-reliant Afghan security forces that can take the lead in counterinsurgency and counterterrorism, and assisting efforts to enhance civilian control and stable government in Pakistan.

As I have said, since March there have been at least three specific changes to the situation.

First, there were flawed Presidential elections in August which have further eroded confidence between the Afghan people and the government.

When I was in Afghanistan in April, there was hope—real hope—that these elections would lead to real change and progress. Unfortunately, the outcome has been a worst-case scenario, validating the fears of those who view the Afghan Government as plagued by corruption. As each day passes, the steady stream of election fraud revealed in the media further undermines trust in the Karzai government. This is especially harmful to our overall counterinsurgency strategy because the goal is to build support among the Afghan people for their government. Remember, this is not—not—between us and the Taliban, it is between the Afghans and the Taliban, and the perception of government corruption only strengthens the Taliban.

Second, we must review the challenges of training the Afghan national security forces.

While the Afghan National Army has demonstrated an ability to fight, there are serious questions about its size and effectiveness, and problems are even

worse among the Afghan National Police. Recruitment has been slow, attrition has been high, there are no noncommissioned officers, and many among the ranks are illiterate.

To build the ANA and ANP, we need to overcome limiting factors in the dearth of leadership development, qualified recruits, infrastructure, trainers, and equipment. During my trip to Helmand Province last month, I was struck by the side-by-side image of the Afghan Army troops in Toyota pickup trucks and U.S. troops in Mine Resistant Ambush Protected Vehicles, or MRAPS.

There is widespread recognition that there is a long way to go before the Afghan security forces can be self-sufficient and that the training plan requires adjustments.

We are now embedding American trainers with Afghan battalions to enhance leadership development, but we continue to do this better, which is why I strongly support Senator LEVIN's plan to prioritize and focus on training the Afghan Army and police. Specifically, I agree that we must expedite the training, equipping, and support for the army and police so they can double in size to 240,000 for the army and 160,000 for the police, not by 2013 but by 2012, and hopefully by the end of 2011. Based on my September trip to Afghanistan with Senators LEVIN and REED, I believe this training can be expedited with the necessary focus and resources. This must—I say, must—be a top priority because our overall goal is not nation building in Afghanistan; it is self-sufficiency for the Afghans so they can provide for their own security, much like what has happened in Iraq.

The third changed condition we must consider is recent developments in Pakistan. When I traveled there in April, the situation was grave. The tension between the Pakistani Government and the Taliban was mounting. The deal that was cut with the Taliban to relinquish control over Swat Valley was unraveling, the Frontier Corps did not have the capacity to ''clear and hold'' in the tribal areas and border region, and I walked away very concerned about the overall political situation.

Immediately after the trip, the Pakistani military took decisive action against the Taliban in Swat Valley and has since regained control of the area. With our help, the Frontier Corps is building its capacity, and we just passed the Kerry-Lugar legislation, which would triple economic aid to Pakistan.

On my most recent trip in September, it was clear the political security environment had improved, but I still remain concerned about al-Qaida and its allies continuing to use Pakistan as a safe haven.

As we review our mission—taking into account these three developments and changing conditions—we must also consider the strategy used to meet our objectives. In March, the President announced ''an integrated civilian-military counterinsurgency strategy'' for Afghanistan. Partnering with the population and training local security forces has proven to be the best way to defeat insurgencies over time. Let me repeat: Partnering with the population and training local security forces has proven to be the best way to defeat insurgencies over time. Therefore, the second principal question we must ask is, Do we have the requirements necessary for waging an effective counterinsurgency strategy in Afghanistan?

Before I address these questions, let me say that I am struck—truly struck—by how quickly the military has adapted to counterinsurgency and how, from the bottom up, it has been adopted. Since General Petraeus wrote the U.S. Army/Marine Corps Counterinsurgency Manual in 2006, counterinsurgency has become fundamental to our military doctrine.

As long as we maintain the strength of our conventional forces, it is increasingly unlikely anyone will take on the U.S. military through conventional means. Let me repeat that. As long as we maintain the strength of our conventional forces, it is increasingly unlikely anyone will take on the U.S. military through conventional means. We must, therefore, prepare to fight future wars against insurgencies, nonstate actors, and asymmetrical forces. As such, the military, under the leadership of Secretary Gates, is rebalancing its budget and making other fundamental changes.

This is remarkable to me because any large organization, especially one as large as the U.S. military, is like a supertanker: it just does not turn easily. Through an incredible organizational effort, however, this supertanker has changed course, and I am truly impressed by the extent to which DOD and the U.S. military have accomplished this and have embraced counterinsurgency, from the privates to the four-star generals.

Counterinsurgency is a four-step process: First, shape a strategy; second, clear the area of insurgents; third, hold the area; and fourth, build through governance, essential services, and economic ability. It is important to note that troops are just one part of a counterinsurgency strategy. Equally important is training the indigenous security forces, providing essential services, promoting economic development, and strengthening systems of governance.

General McChrystal has recommended a full counterinsurgency approach in Afghanistan. As he mentions in his report, we should not resource the mission without reconsidering the strategy, and focusing on troop levels or resources alone ''misses the point entirely.'' Therefore, I ask again, do we have the requirements for an effective counterinsurgency strategy in Afghanistan? In order to explore this question, we must look at three key areas—governance, training, and the civilian role—and ask the following questions: First, can the Afghan Government offer a winning alternative to the Taliban? Second, can we train enough Afghan troops and police to meet the required number of counterinsurgents? Third, do we have enough civilians? Finally, we must also consider how to develop an effective strategy for reintegrating low-level insurgents.

Counterinsurgency is about trust building between the local population, the security forces, and the government. Without trust, we cannot expect sustainable progress, and that is why I am particularly concerned about allegations of fraud in the Afghan elections.

If this were a political campaign, there would be no need to run negative ads against the Taliban. According to the polls, the Taliban has only 6 percent support among the Afghan population. This is the good news. The bad news is that in the absence of jobs, credible governance, and essential services, this does not translate into support for the Afghan Government by the Afghan people. This is why we cannot just target the Taliban or insurgents. We must help the government develop a capacity to provide for its people so it can be viewed as credible and effective.

This is why the outcome of the recent election must be resolved in a clear manner so that whatever trust remains between the Afghan people and the government is not further diminished. We must ask—can we succeed in a counterinsurgency with a Karzai government tainted by allegations of fraud and corruption? How do we recalibrate our strategy in light of the recent flawed elections?

The second question I would like to raise is about the amount of counterinsurgents we need to succeed. Counterinsurgency doctrine tells us that troop size is not determined by the size of the enemy, but rather, by the size of the population. As such, we need a ratio of one counterinsurgent for every 50 citizens. The latest CIA World Factbook estimates the population of Afghanistan at 28 million, which means that we need roughly 560,000 ''boots on the ground'' which includes Afghans, NATO troops, and Americans.

During our visit, we learned that there have been 94,000 Afghan National Army and 82,000 Afghan National Police trained as of August. This brings the total number of trained Afghans to slightly less than 200,000. Combine this with 68,000 U.S. troops by the end of the year, and 38,000 NATO forces, and we have reached nearly 300,000. This is slightly more than half of the requisite number of troops, and is overly-generous in assuming that all trained Afghan security forces are combat ready and effective. Just by comparison, in Iraq, a country of two-thirds the size, there are already more than 600,000 trained security forces.

No one is suggesting we fill this enormous vacuum with American troops,

which is why we must focus on expediting training for the Afghans. And this is what Senators LEVIN, REED, and I heard was wanted and needed by the Afghans themselves during our recent visit.

In the Garmsir District of Helmand Province, we met with more than one hundred local Afghans and tribal elders who insisted they want to independently secure their own population. They realize the need for U.S. troops to help to train and equip the Afghan National Security Forces, and recognized that American assistance is needed to accomplish this mission. But once the Afghans are able to provide security for themselves, they will be ready for us to end our military presence. In the words of the elders—once the Afghan security forces are trained, we will be welcome simply as ''guests.'' In the meantime, we have to find a way to prioritize training, so Afghans can eventually fill the security vacuums with minimal American assistance.

The third question regarding an effective counterinsurgency strategy is: do we have enough civilians to implement counterinsurgency in Afghanistan, and how can we expedite the deployment and training of civilians?

According to counterinsurgency strategy, once the troops have cleared and held an area with the support of Afghan Security Forces, civilians must partner with Afghans to build. And we need hundreds of additional civilians on the ground to fulfill a wide range of non-military requirements including improvements in agriculture, economic development, essential services, and governance.

We have heard lots of talk in Washington about the need for a ''civilian surge'' to complement the additional troops President Obama has pledged for Afghanistan this year. Many of those civilians have been hired, and the State Department expects to have nearly 1,000 civilians on the ground in Afghanistan by the end of this year. I support these efforts, but still believe that more must be done to build a stronger civilian capacity in Afghanistan.

During a visit to Camp Atterbury in Indiana last week, I met with 38 civilians deploying to Afghanistan. At Atterbury, civilians train with the military to cultivate an integrated approach and greater unity of mission. Like our soldiers, these civilians volunteer to leave their families behind and put themselves in harm's way to better the future of Afghanistan. We owe them and their families a debt of gratitude for their service, and we must ensure they have the tools, support, and training they need to succeed.

Civilians serving in Afghanistan from across the interagency are sharing trir expertise in everything from agriculture to governance, counternarcotics, accounting, energy, development, and education. The role of the military and civilians are complementary—one cannot succeed without the other. This is why military officials including Secretary Gates and General McChrystal are some of the strongest advocates for a deepened civilian commitment to Afghanistan. To succeed in counterinsurgency, we must do everything we can to expedite and increase the recruitment and deployment of qualified civilians.

Finally, when formulating an effective counterinsurgency strategy, we must ask if we have developed a plan for reintegrating low- and mid-level Taliban. I am not suggesting we speak with Mullah Omar or other members of the Taliban leadership, but we must recognize there are many Afghans working with the Taliban for purely economic reasons. One of the striking observations on my two trips was the fact that a primary concern of Afghans is jobs, just like Americans. And if we can offer economic incentives and alternative sources of livelihood—especially with regard to the drug trade—I am hopeful that we can reintegrate some insurgents ready to disavow violence. This will not be quick or easy, but the good news is that reintegration is possible, based largely on the model we successfully used for the Sons of Iraq.

You can see the complexities of determining our mission and objectives are great, and multiple questions remain in developing an effective counterinsurgency strategy for Afghanistan. But these considerations are only half the story.

Once we have reviewed the strategy and mission, we must also consider how our policy in Afghanistan impacts Pakistan. As the President announced on March 27, ''the ability of extremists in Pakistan to undermine Afghanistan is proven, while insurgency in Afghanistan feeds instability in Pakistan.'' The relationship is clear and U.S. interests are inextricably linked, which is why the President adopted the regional approach coined ''Af-Pak.''

In my view, there are four primary challenges in Pakistan that we must consider when formulating our strategy in Afghanistan.

First, Pakistan is a vital security interest because it has become a safe haven for al-Qaida, which has continued to train there and plan for future attacks on Americans. We know this based on the arrest less than three weeks ago of Najibullah Zazi, an Afghan planning a large-scale attack in New York, who is believed to have trained with al-Qaida in Pakistan.

Second, Pakistan has nuclear weapons and the delivery vehicles to use them. Therefore, political instability in Pakistan is not only a regional threat, but a larger global security interest. If Pakistan was destabilized or if control over its nuclear arsenal was compromised, it would pose severe security repercussions. It would be a nightmare scenario to have Pakistan ruled by fundamentalist religious fanatics with ''loose nukes'' in the hands of al-Qaida or other extremists.

Third, Pakistan's ongoing tension with India has limited its ability to respond fully to internal threats, such as the Taliban. The Pakistani military continues to see India as its number one threat, and has therefore hesitated to shift its focus from its eastern border to the west. This has improved in recent months since the Pakistani military went into Swat, but any U.S. policy must take into account Pakistani concerns about India.

Fourth, elements of the Pakistani intelligence service, or ISI, have at times allied with the Afghan Taliban. On the one hand, they want to hedge against a total U.S. total withdrawal from Afghanistan, as we did in 1989, or a limited withdrawal as we did in 2003. On the other hand, many in Pakistan worry that an increase of U.S. forces in Afghanistan may push extremists further into Pakistan.

This view was expressed today by the Pakistani Foreign Minister in the Washington Post. Quoted in an editorial, Foreign Minister Qureshi stated, ''If the likes of Mullah Omar take over in Afghanistan, it will have serious repercussions for Pakistan . . .'' He went on to say that the Taliban's actions in Afghanistan ''. . . will have implications on Pakistan and it will have implications on the region.''

All of these considerations indicate the need for a sustained U.S. commitment to Pakistan, which is why Congress just passed the Kerry-Lugar bill and economic assistance package. This is a $7.5 billion vote of confidence in the Pakistani people, meant to demonstrate that our commitment to Pakistan is strong and enduring. It is also meant to demonstrate that our interests are not just limited to the border with Afghanistan.

In conclusion, as one can see in the detail and number of questions that I have raised, this reassessment of our Af-Pak strategy is about much more than sending additional U.S. combat troops into Afghanistan. As Senator LEVIN has pointed out, talking about troop levels in Afghanistan is similar to talking about the public option in health care reform. Just as the public option is only one element of the health care debate, U.S. troop levels are just one element of a much broader set of issues in Afghanistan.

The White House is now engaged in the necessary process of evaluating realities on the ground and questioning underlying assumptions. I fully support this process. The questions I raise today are intended to contribute to this ongoing review, so that we may find the right solution.

The stakes are too high for us to carry on business as usual or to ignore the changing dynamics in Afghanistan and Pakistan. This is why the President should weigh all perspectives about conditions on the ground and the region, our counterinsurgency strategy, and the way forward in our mission. I fully support the President's comprehensive approach, and I agree it

is needed because we have to get this right. We owe it to ourselves, we owe it to the American people, and we owe it to the brave men and women who continue to serve with great courage, honor and sacrifice in Afghanistan.

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

The PRESIDING OFFICER (Mrs. HAGAN). The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

AMENDMENT NO. 2629 WITHDRAWN

Mr. MCCAIN. Mr. President, I have received assurances that there will be no blocks or impediments to consideration of the prescription drug importation issue, which I and a number of us have been seeking a vote on for a number of years. I have been given assurances that there will be no impediments to bringing that issue up when health reform is before the Senate. Therefore, I withdraw the amendment.

The PRESIDING OFFICER. The amendment is withdrawn.

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

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

AMENDMENT NO. 2644

Mr. VITTER. Mr. President, I ask unanimous consent to set aside the pending amendment and to call up Vitter amendment No. 2644.

The PRESIDING OFFICER. There is no amendment currently pending, so the clerk will report.

The assistant legislative clerk read as follows:

The Senator from Louisiana [Mr. VITTER], for himself and Mr. BENNETT, proposes an amendment numbered 2644.

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

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

The amendment is as follows:

(Purpose: To provide that none of the funds made available in this Act may be used for collection of census data that does not include a question regarding status of United States citizenship)

On page 110, line 7, strike ''activities.'' and insert ''activities: *Provided further*, That none of the funds provided in this Act or any other act for any fiscal year may be used for collection of census data that does not include questions regarding United States citizenship and immigration status.''

Mr. VITTER. Mr. President, I present this amendment on behalf of myself and my distinguished colleague from Utah, Mr. BENNETT, who will speak after me. It is a very simple but, I believe, a very important amendment. It says we are not going to do a census that doesn't ask some basic questions about citizenship and immigration status.

Specifically, the amendment reads:

None of the funds provided in this act or any other act for any fiscal year may be used for collection of census data that does not include questions regarding United States citizenship and immigration status.

I believe this is a vital amendment for two reasons. If we don't adopt this amendment or other legislation, the census will move forward and will not distinguish in any way between citizens and folks in this country legally and noncitizens. That, in my opinion, is absolutely crazy, again, for two reasons.

No. 1, the census is done every 10 years to give Congress an important tool in terms of many things that Congress and other bodies of government do: funding, public policy, different programs. Clearly, we need accurate, specific information about the illegal alien question in this country. I assume we will all agree, however we come down on the issue, that illegal immigration is a big issue and a big problem. We debate that issue, we try to solve that issue in different ways all the time in this body. Yet we would do a census, we would spend tens of billions of dollars on a census, and we wouldn't ask the question: Are you a citizen and, if not, are you in this country legally or illegally? That is absolutely crazy. The census does ask those questions in the long form. They are able to get the long form completed. They are able to compile information, but that is not the full census; that is a tiny percentage of the full population.

So if we are going to spend tens of billions of dollars every 10 years to do a major census, it seems absolutely a no-brainer that we would get full and accurate information about the number of illegals in this country.

Secondly, and perhaps even more importantly, the single most important thing we use the decennial census for is to reapportion the House of Representatives, to decide how many House Members each State gets. Under the Federal plan, the way the census is designed, the House would be reapportioned counting illegal aliens. States that have large populations of illegals would be rewarded for that. Other States, including my home State of Louisiana, would be penalized.

I believe it is very clear that when the Founders set up our representative democracy, they didn't think of the basic fundamental institutions of our government as representing folks who come into the country breaking the law, staying here illegally. I think it is shocking to most Americans when they hear we would even consider reapportioning the House of Representatives counting illegals, but that is exactly the plan now. Of course, we would have no opportunity to debate that or to adopt a new plan unless the census distinguishes between citizens and legals and illegals, which my amendment would demand we do.

This isn't some theoretical issue. This is a very concrete issue, a very meaningful issue about how much representation each State has in the House of Representatives. There are many States that will lose representation from what they would otherwise have if illegal aliens are counted in congressional reapportionment. Specifically, the States of Indiana, Iowa, Louisiana, Michigan, Mississippi, North Carolina, Oregon, Pennsylvania, and South Carolina would lose out. So I wish to specifically speak to my colleagues in this body—Republicans and Democrats alike—from those States: Please support the Vitter and Bennett amendment No. 2644. It has a direct impact on whether you are going to have less representation in the House of Representatives or more. Let me be even more blunt. If you vote against this amendment, you are voting against the interests of your State. If you vote against this amendment, you are voting for your State having less representation in the House of Representatives than they would if illegals are not counted in reapportionment. Again, with that in mind, I wish to repeat the list: Indiana, Iowa, Louisiana, Michigan, Mississippi, North Carolina, Oregon, Pennsylvania, and South Carolina. For Senators from those States, it is a vote directly about their State's own interests and their State's representation in the House of Representatives.

More broadly speaking, I think the huge majority of Americans would certainly take the view I am suggesting, which is we should not apportion Members of the House based, in part, on illegals. We should not reward States for having large illegal populations and penalize States that do not. I think that is on a different planet from where our Founding Fathers were in setting up the basic Democratic institutions of our country, and there is no more basic and no more Democratic institution than the House of Representatives.

With that, I urge all my colleagues, Democrats and Republicans, to support this amendment.

I yield time to my distinguished colleague from Utah, Mr. BENNETT.

The PRESIDING OFFICER. The Senator from Utah is recognized.

Mr. BENNETT. Mr. President, I thank Senator VITTER for proposing this amendment. It follows the idea of the bill I introduced a few weeks ago that is now S. 1688, the Fairness in Representation Act.

My bill, obviously, will not pass before we get so far down the road to deal with this issue. So it is appropriate for the amendment to be offered, and we can accomplish the same thing with the amendment that would happen if my bill were to pass.

Since my bill was introduced, I have had three primary objections to it. I

wish to deal with each of those, because they would probably be raised with respect to this amendment as well.

No. 1, you cannot ask somebody who is an illegal alien to identify himself or admit that he is here illegally when you are doing the census calculation. Well, it may surprise some people to know that the Census Bureau already asks for this information. It collects it on the ongoing American community survey. That is not as comprehensive as the entire census. If it were, we wouldn't need to do it here. But the Census Bureau already has a track record of asking this question without running into that particular difficulty. The information collected by the census is 100 percent confidential under penalty of law, and the census takers can make that clear to any individual who might be concerned about that. So that is not a major problem.

No. 2, people say, well, since the census data is used to determine funding levels for a variety of programs, and since the illegal aliens get involved in the funding, if you do this, you will be cutting funding for State programs that service the illegal aliens, and that is not fair. The reality is that this amendment, and my bill, do not cut funding. There is nothing in the bill that would say that funding formulas would change. This is an attempt to find out how many illegal aliens we have in this country and where they live—the statistical information, which we do not fully have now, as a result of the American community survey. We have a hint at it in the American community survey, but we are extrapolating for that and making a guess.

Since the census is a once-every-10-year attempt to discover what America is like, who the Americans are, and where they live, it seems to me very logical that the census should add this particular piece of information to it.

Well, after these two arguments have been made and dismissed, the third argument—and we get this most strongly from the people at the Census Bureau—is that it is too late, too bad; you should have brought it up earlier, Senator BENNETT, but we started to print our surveys already and we cannot reprint them; it is too late.

I wonder if they have ever thought of printing an extra sheet or extra card. You don't have to reprint the whole survey if you have one additional question you want answered. I have seen books where there have been errors in the book that have come out after the book is published with an errata sheet—that on page so-and-so this particular entry is not correct. It is not that big a deal for the Census Bureau to do some kind of addendum that could be printed and made available so we could solve this particular problem.

All right. Aside from knowing, what do we intend to do with this data if we get it? Senator VITTER made reference to this in his discussion of the amendment. I want to use it today to deal with the question of the apportionment of the voting powers in the House of Representatives. If we go back in history, we find there was no more controversial issue in the writing of the Constitution than the question of representation in Congress. Small States wanted it by State. Large States wanted it by population. The great compromise came along that created this body and said that membership in the Senate would come by State, and membership in the House of Representatives would come by population. But it was left up to the State legislatures to determine how that population would be apportioned. Each State was given a number of representatives based on the population. But the State legislatures could determine where the lines were drawn and how the districts would be created. We had a situation develop over time where States would draw a line and simply leave it. People would move from one congressional district to the other, but the line would not be changed. There was a situation where there were many congressional districts whose representation, numerically, was substantially less than that of some other congressional districts in the same State.

This brought about a lawsuit that went before the U.S. Supreme Court. In the decision in the case of Reynolds v. Symms, issued in 1964, the Supreme Court gave us the one man, one vote rule, which said that the districts should be close enough in population that, in effect, every voter had the same weight of representation in the House of Representatives.

If we have this tremendous number of illegal aliens concentrated in a few States, we have an impact of changing the one man, one vote dictum of the Supreme Court; that is, a State with a large number of illegal immigrants will see to it that its voters have greater representation than voters where the illegal immigrants are not.

All we ask in this amendment and in the bill I proposed is that the Census Bureau be instructed to ignore the presence of illegal aliens when allocating the number of representatives in a State. As I say, it has nothing to do with the funding of programs, because the programs have to be funded where the people are, and we understand that. I believe it is entirely constitutional that the allocation of the congressional seats can be done on the basis of those who are here in a legal circumstance.

As the Senator from Louisiana has pointed out, this is not a trivial matter. There will be eight States that will lose representation to four States if this is not done. Four States' voters will be overrepresented in the House of Representatives because of the large population of illegal immigrants in those four States, and nine States will be underrepresented because of the fact that their voters do not happen to live in a State where there is a large population of illegal aliens.

I am happy to join my colleague from Louisiana in cosponsoring this amendment. I hope our colleagues in the Senate will see fit to support it.

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.

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

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

Ms. MIKULSKI. Mr. President, this is a new amendment for us. We had not anticipated that this amendment—that a debate on immigration and the value of one person over another was going to become a subject of discussion in an appropriations bill. We would hope this type of conversation would be taken up on comprehensive immigration. I know my colleague from Utah, who is on the Appropriations Committee—and both are important to me, that he is from Utah and that he is on the Appropriations Committee—has thought this through greatly. He raises some very important points. I have discussed this amendment with my leadership. I know they want to take a more careful look at this and also consult on its full ramifications.

We are now talking about questions being asked through the census and the objective to be accomplished for that, which the census was originally for counting people for tax purposes, ironically. This is an apportionment question. So what we would like to do is go into a quorum while we look at how we may proceed on this amendment.

Having said that, I want to reiterate the importance of the census being taken every 10 years. The census must be taken for the reasons that our colleague from Utah outlined. No. 1, it determines the use of Federal funds, and that is why we count persons, because regardless of your status, you are a user of services—in some instances, maybe even more than a user of services. The second thing is with apportionment. I think that is a delicate matter that the Senator from Utah is raising. This gets us into constitutional questions. I am apprehensive about it. Again, we are going to consult with the leadership.

Also, as we move forward on the issue of the census, we have to make sure we do have a head count. The Census Department itself, right now, is under very serious duress. They were late getting started on some of their issues. There has been an enormous technological boondoggle with the hand-held technology, the enumerator, with which I believe the Senator from Utah is familiar. We have been working with the previous administration, this administration, and the Secretary of Commerce to get the census straightened out. My colleague said: Why don't they just print one more piece of paper? One more piece of paper sounds

simple. But everything we do that affects the census at this point presents a logistical and financial challenge that borders on a challenge to a nightmare. Again, we have calls in to the census that say, what will it take to do it?

I have reservations about adding this question, because I believe it will add to the logistics and costs. And No. 2, it could be a deterrent to people answering those questions because of who else is in their household. The other thing is that we have many people in our country who are green card people, who are here absolutely legally and justifiably. Some are in our own community at some of our community hospitals and are working as nurses. And asking this question and that question—I don't want to raise the issue of a deterrence and the ability to cooperate.

I want to take a closer look at this amendment. While we do 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.

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

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

The Senator from Maryland is recognized.

Ms. MIKULSKI. Mr. President, I know we are debating here the nature of the questions that should be asked on the census. Our colleague, Senator CARPER of Delaware, in a matter of minutes is holding a hearing on the census. At that hearing, he is going to seek some clarification on this and report back to us.

As we continue the debate on that amendment, I also want to bring to the attention of the Senate some of the very important things that are in this bill. We want to move this bill forward. I want to move this bill forward. We will dispose of, in an orderly, civil, rational way, the pending amendment of Senators VITTER and BENNETT on the census. But we also want to move this bill forward. We want to do everything we can so that this bill passes by the end of this week so we can go to conference and be ready to move very important funding forward, particularly in the area of law enforcement.

This is absolutely a very compelling need. When we think about law enforcement, yes, we can think about law enforcement with illegal aliens. Yes, we can also think about law enforcement with violent criminals. We do deal with that in our bill. But we are also very much focused on white-collar crime. One of the areas on which we have worked on a bipartisan basis on this bill is the issue of mortgage and financial fraud. So, as we are debating amendments that are controversial, I want the people of America to know we are on their side and we can do it on a bipartisan basis.

One of the great pleasures of being on the committee is my ranking member—or the vice chairman, some people might call him—Senator SHELBY is the ranking member on the Banking Committee. We put our heads together on how we can fight mortgage and financial fraud. He brought great expertise from his work on the Banking Committee. We now are looking at what we can do, by putting the money in the Federal checkbook, to go after those engaged in predatory practices, deceptive marketing and lending schemes.

Mr. President, you know from your background as a legislator and community leader that where there is need, there is often greed and often scams and scum doing it. We see it in the mortgage business. There are so many unsuspecting people who want just a piece of the American dream who were lured into some of the most deceptive practices that we have not seen in our country for several decades. They do have names. They are antiseptic names, but they mean a lot: predatory practices, deceptive marketing, lending schemes, flipping. The consequences have been enormous. During the past year, financial institutions have written off $500 billion in losses because of fraud in the subprime mortgage industry—$500 billion in losses. That is a lot when you think about what we have had to do to try to stabilize housing, to try to stabilize our mortgage industry. Numerous publicly traded financial institutions have declared bankruptcy or have been taken over by the Federal Government. I don't mean to imply that being taken over by the Feds was all due to the fact that they had been involved in fraudulent schemes, but it is time to say: No more.

What we want to be able to do is to go after the scammers who caused Americans to lose their homes, their life savings, and their dignity. Yes, I worry about the financial institutions, but I worry about people who put their money in the bank or took these loans that caused them, through balloon payments, excessive interest rates, two, three, four, five mortgages, all of which were unable to be sustained, to lose their homes. We on this committee say and we want our Senate colleagues to say: No more scamming and scheming. No more preying on hard-working American families.

What did the Commerce, Justice, Science Subcommittee do? Senator MIKULSKI, you don't have to use a lot of rhetoric, but will it take a lot of money? We are going to do it. We are going to put $437 million in the Justice Department to combat financial fraud and be able to do what we need to do. This is a $63 million increase over fiscal year 2009. We are going to hire new agents, new attorneys, and new special support staff—people who will be skilled in an exciting new field called forensic accounting.

Our FBI is going to play a major role in this. I talked personally with Director Miller about it, as has Senator SHELBY. We have gotten the FBI's commitment to really beef this up. In our own hometown of Baltimore, the U.S. attorney has put together a special task force to be able to deal with this.

What does it mean? First of all, in the Federal checkbook, we put in $75 million. This is going to increase the number of these mortgage fraud task forces around the country. We have a very excellent one under Rod Rosenstein, working in Baltimore, in our State, right this minute. But we also wanted to be able to go into States with large rural populations and others that right now do not have them.

Specifically, the funding will be used for the FBI to hire, as I said, new agents and forensic accountants. This is highly specialized, but there are people with backgrounds in accounting with special training in forensics. It is like the CSI not only says ''hi'' to a test tube but says ''hi'' to the kind of accounting that will go after these crooks. It is amazing how they can look at the books and know how people have been cheating.

We want the agents to be able to detect and investigate and capture these white-collar criminals, but we also want our U.S. attorneys to prosecute complex financial fraud. We want to be able to increase prosecutions by adding U.S. attorneys. We are adding several U.S. attorneys and support staff around the country to be able to establish the task force and work in the task force. We are very proud of our U.S. attorneys, and I believe our Attorney General, Eric Holder, is helping to restore the integrity of our U.S. attorneys around the country.

We believe in Maryland we have a very high-value functioning U.S. Attorney's Office, but they are swamped. They are going after everything from drug dealers to other violent criminals, and we also want them to have the resources to go after the white-collar crime. This is a crime. It is not as if just because it is white collar we often don't equate it as a crime, but for the Criminal Division at Justice, we are also encouraging them to step up their activity. Again, we are adding attorneys and support staff and putting the money behind it to be able to do it.

We are also doing increased work in the Civil Division to fund initiatives and to also litigate these cases and make sure we not only detect them, we not only prosecute them, but we have the lawyers and the support staff to do it. Support staff are paralegals, clerical people. But again, it is a unique kind of crime. You have to come with multiple skills. You have to come being a great lawyer or a great person who is part of the legal team. You have to have strong litigating skills, but you also have to be well versed in financial services and accounting practices. So we want to be able to bring them on and be able to keep them as we go through many of these other cases.

These are the kinds of skills we need to not only go after white-collar crime but also violent crime. Remember, we got Al Capone, not in the act of robbing a bank but cheating on his taxes.

It was that brilliant FBI generation where you had to be either a lawyer or accountant to work for the FBI. Now, again, lawyers and accountants are welcome at the FBI. But they caught Al Capone cheating on his income tax. It was one of the ways we could nail him.

I am not saying we are going to be nailing people for cheating on their income tax, but we are going to nail people who cheated and schemed and gouged against innocent people who wanted to buy a home—through acting like loan sharks, having phony ads, having fine print so that you bought a home in the large print and you lost it in the fine print. We want to make sure those people know how to read the fine print and know what it means.

While we are debating this bill and we are looking at those things that are going to focus on topics outside the scope of this bill, we want people to know we are on their side. For everybody who is stretched very thin financially, trying to keep their head above water, and trying to buy their home, we want them, at least when they go to get a loan or to refinance it, to be dealing with honest, reputable dealers. Let's foreclose on the bad guys and stop the foreclosure on homes.

I yield the floor.

The PRESIDING OFFICER. The Senator from Ohio is recognized.

HEALTH INSURANCE

Mr. BROWN. I appreciate the comments of the senior Senator from Maryland—the junior Senator from Maryland is presiding—and especially their work jointly on housing issues and how important that is.

I come to the floor pretty regularly to share letters from people in my State, in Ohio, letters about health care. These are typically people who had health insurance with which they were satisfied and who thought they had good health insurance policies, were maybe concerned about job loss—certainly because that is too common in our country now—but were generally satisfied with their health insurance until someone in their family got very sick and they lost their insurance or it got so expensive that they declared bankruptcy or all kinds of problems that happen too often in our health care system. I would like to read four or five letters, if a could for a moment.

I ask unanimous consent to address the Chamber as in morning business.

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

Mr. BROWN. David from Cuyhoga County, Cleveland, northeast Ohio:

My family's health care costs have tripled in five years. I have a generous employer-provided plan and my employer has done what it can to use its purchasing power to buy competitive coverage. But the co-pays and deductibles go up astronomically each year while covering fewer services. We need to cover everyone and find ways to reduce costs across the system to promote a sustainable health care system in America.

One of the things this legislation will do is bring more competition into the system. One of the choices, according to the Health, Education, Labor, and Pensions Committee bill and three bills that have passed the House of Representatives, until we come forward in final passage, and passed the committee in the House of Representatives, includes—the menu of choices people have for insurance will include a public option. So people will be able to choose Aetna or CIGNA or, if they are in Ohio, Medical Mutual, a not-for-profit medical mutual insurance company, or they will be able to choose the public option.

Having the public option there will, No. 1, keep the insurance industry honest and make sure some of the gaming of the system and throwing people off insurance and disqualification because of preexisting condition or discrimination based on age or gender—those things won't happen because the public option will be an option and will give people more choice in competing with the insurance industry to keep costs down.

Mike from Richland County, where I grew up, the Mansfield area:

My mother-in-law has worked hard all her life. But today, she can't afford her medication, which she takes only when she can afford them. She cuts them in half and takes them every other day. I have coworkers and friends with their own stories. They have worked hard all their lives and paid their taxes, but are worried what happens when they get sick or if they'll have enough savings to retire.

As we have discussed, the whole point of the public option is to keep prices down. The whole point of the public option is to compete so that insurance companies no longer game the system.

We know that the insurance system without the public option doesn't have the kind of competitiveness it needs to keep the insurance companies honest, to give people full choice, and to keep prices in check and keep quality of the insurance coverage better.

I hear people all over—not just from Mansfield, but I hear people all over our State—complaining and asking for the public option because it gives people that ability to compete. It makes the insurance companies better, it keeps prices in check, and it will mean more competition in those parts of Ohio. In Cincinnati, only 2 companies have 85 percent of the market. I know those same kinds of things happen in the State of the Presiding Officer, in Oregon, where the public option will mean more competition, better choice, keeping prices down. That will matter for all of us whether we choose the public option or whether we choose to go into a private insurance plan.

Betsy from Lake County writes:

I never thought in a million years that health care reform was necessary for me. Our family was covered and thought that was enough. But recently my 5-year-old daughter got sick with cancer. Over two years, she was hospitalized 37 times and treated with chemotherapy and countless medications.

At the time, my husband worked at a small, struggling business. He was essentially tied to a job that didn't pay our bills, but we needed [his] insurance.

After each hospital visit, the insurance company would send us a letter denying a portion of the stay unless a doctor could justify the hospitalization.

In addition, at the end of every quarter, the insurance company raised the premium for each worker in my husband's business.

Finally, my husband took what little savings we had and started his own business—only to be told my daughter was uninsurable because of her preexisting conditions. She finally got insurance through the State.

I am guessing it was the SCHIP plan we passed 2 years ago that President Bush vetoed; then we passed it again this year, and it was signed into law by President Obama.

She finally got insurance through the State. But Betsy from Lake County is asking: How is it possible in America that a now 8-year-old girl is branded as uninsurable. This speaks to all the problems that have happened in your health care system. Some 3 or 4 years ago, Betsy thought she had no problems with health insurance. Her husband was employed in a decent job that sounded like he had health care insurance. They were covered. They had a small child.

But when their child got sick, they found out their insurance was not nearly as good as they thought it was. It is an old story and a way too common story in our great country that the fine print of an insurance policy so often ends up denying people care. So often they have to take huge expenses out of pocket. Betsy did. So often they raised the premium every quarter for everyone else in the small business.

If you are in a small business and you have 20 employees and one of those employees gets sick, as Betsy's daughter did, then everybody's premium goes up to the point that the company can no longer afford insurance or sometimes the insurance is actually canceled for all the employees.

Then last, this little girl, this 8-year-old, was uninsurable when Betsy's husband changed jobs and became self-employed. She could not get insurance. The family could not get insurance because of the daughter's preexisting condition. That is what this health care bill is all about. That is what the public option is all about.

The health care bill will simply allow small businesses to go into the health insurance exchange so they can spread out in a much larger insurance pool, so one person, very sick and getting a very costly illness, will not blow a hole in the insurance coverage.

Our legislation will eliminate the denial of care for preexisting conditions. No more raising premiums indiscriminately the way they do. Having the public option will exert that discipline on the private insurance companies that they are going to have to compete. They cannot indiscriminately raise premiums on worker after worker, on employer after employer, on small business after small business after small business.

In Betsy's case, as sad as it is, as tragic as it is, although she is now getting insurance through the State health insurance program, it sounds like, as much anxiety as she must have faced in the last 3 years as her daughter got so sick as a 5-year-old, and at the same time, while combatting her daughter's illnesses and going into the hospital 37 times, as she points out, she had the anxiety, this family always had the anxiety in back of their minds that they were going to lose their insurance and what were they going to do to take care of their daughter.

That is why the public option is so important to people; that security and that understanding that they are, in fact, protected, that their insurance cannot be taken away from them, that their insurance company cannot deny this little girl the care and coverage because she has this ''preexisting condition,'' a term I hope will not be in the American vocabulary, in the English vocabulary, come this time next year.

Marti, from Franklin County, central Ohio, Columbus area, writes:

I am writing to urge you to support health care reform that would reduce costs, would offer choice, including a public option, and would provide quality care. My wife and I have coverage, but our daughter is one of the millions of uninsured. After college she could not find a job with health benefits. She incurred considerable debt paying for out-of-pocket doctors visits and prescriptions. We need health reform that will benefit American families.

Marti, from Franklin County, asks for choice, including a public option. She understands, as the majority of Ohioans do and a majority of people in this body understand, that the public option gives people one more choice: Do they want to go with CIGNA? Do they want to go with Aetna? Do they want to go with Blue Cross? Do they want to go with Medical Mutual Ohio? Do they want to go with the public option? Give them that additional choice.

That is what Marti is asking for herself, for her daughter, and for her neighbors. But Marti also pointed out that her college graduate daughter lost her insurance. One of the things our legislation does is it says to an insurance company: You cannot drop a college student after college. They can stay in the plan until they are 26.

So we understood, as we wrote this bill, that the junior Senator from Oregon helped write in the HELP Committee, that there are an awful lot of young people, the pages sitting in front of us may face this—they are not going to face it because we are going to fix it. But they would have faced that, their older brothers and sisters might, when they join the Army, leave home or finish college. At 22 or 23 or 24 years old, so many people lose their insurance, sons and daughters of people who have insurance.

Under our bill, the company must keep you on the policy, if you so choose and if your parents so choose, until your 26th birthday. As I said, Marti understands the importance of a public option there. So when their daughter does, under our bill, when their daughter does turn 26, she will then be faced with, if she does not have employer insurance, she will then be faced with does she want to go into a private plan or does she want to look at the public option. She will have the choice.

The choices will be much better because we have changed the rules. No more preexisting condition denial of care, no more annual caps on benefits. So if you get sick, and it is expensive, you will lose your insurance. No more of that. No more discrimination based on disability or age or gender or geography. The public option will make sure the insurance companies do not game the system.

The last letter comes from Jason from Cuyahoga County. Jason says:

I sand and refinish hardwood floors for a living. I work for a small business with only four employees. Unfortunately, my boss cannot get a group discount for health insurance because there is not enough of us to qualify for one. I am 24. I make $1,500 a month depending on how much work we have. I live on my own. I cannot afford health insurance on my income. I am in good health, but that can change in the blink of an eye with the work I do. If or when I get hurt while at work, I will not be able to make any more money and will have to drain my savings to get well enough to work again. Please vote yes on health care reform with a public option.

Jason, in the Cleveland area, sums it up here. A young man who is working hard, four of them starting a business. They have jobs. They are creating jobs. They are the kind of people we want to help. People working hard, playing by the rules, saving some money. Even at his relatively low income, he is saving some money. But he is praying every day he does not get hurt in a job that workplace injuries are not all that unusual.

Are we going to turn our back on someone such as Jason in Cuyahoga County or are we going to say: Well, tough luck. We hope you do not get hurt. If you do, then we hope you get well soon.

But a guy such as Jason, he loses his job, he gets sick or he gets injured on the job, he is out of work. He may be able to get disability for a little bit. He might be able to get unemployment benefits for a little bit, maybe. But probably not if it is an injury on the job or if he is sick.

But what do we have for him to help him get through the day? He cannot afford insurance because there are only four of them. They pay exorbitantly high rates. What our legislation would do is give Jason several choices.

It would mean Jason could, with his small business of four people, go into a public option or get private insurance but go into a larger pool of workers so the costs would be shared and the price would be much less. We know insurance for one person or five people is much more expensive per person than insurance at a big corporation, where they can spread the cost around among dozens or hundreds or thousands or tens of thousands of people.

Second, our bill will provide a tax credit for small businesses to insure their employees, so they will get some help that way.

Third, where Jason can decide instead to go directly into the insurance exchange we set up in the HELP Committee in our legislation. The insurance exchange will give him the opportunity, give him a choice, a full choice: Do you want a private plan? Do you want Aetna? CIGNA? Medical Mutual? Or do you want the public option? We know that choice will be less expensive. We know that choice, because of the public option, will stop the insurance companies from denying Jason or one of his coworkers coverage because of a preexisting condition. We know the public option will stop the insurance companies from discriminating against people based on gender, disability or geography or age.

We know the public option will enforce all these rules on the insurance companies and help to keep prices down because of the competition. The whole idea of the public option is about choice. It is about keeping prices down. It is about making this insurance bill cost significantly less because people will have that choice and that competition we inject into the system.

Last, as I have said, the public option will help to make sure that even though we have passed these new rules to keep the insurance companies from gaming the system, the public option will help us enforce those rules so the company cannot game the system the way they have too many times in the past.

As we move forward in the next few weeks, we know that four committees in the Congress, three in the House of Representatives, the Education and Labor Committee, the Ways and Means Committee, and the Energy and Commerce Committee, plus the HELP Committee in the Senate on which the Presiding Officer sits, that those four committee have all passed a good health care bill, very important assistance to small business, wellness and prevention programs, and a strong public option.

Only one of the five committees has not passed the public option. We know that. We know, second, the public option will help us keep costs in check. That is what is so important about it. We also know an overwhelming majority of the public, something like 2 to 1, support the public option and would like to see the public option as part of this legislation.

We know in a recent doctors' survey, a Robert Wood Johnson survey, that more than 70 percent of this Nation's doctors support the public option. Why? Because they have been used to dealing with insurance companies that deny care, that pay them late, that hassle them on bill after bill after bill. The doctors in this country, the real

frontline doctors and nurses and physical therapists and speech and hearing therapists, they understand that in overwhelming numbers a public option will be good for them and more importantly good for their patients and good for this country.

It is pretty clear an overwhelming number of people in this country, an overwhelming number of people in both Houses support the public option. I am confident it will be part of the bill. It is important that it is, because it will make this health care legislation, already a pretty good bill, significantly better.

I yield the floor.

Ms. MIKULSKI. Sorry I cannot stand. As the Senator from Ohio knows, of course, from the chair I am sitting in I have become an expert on health care from the wheelchair up. I broke my ankle coming out of church a couple weeks ago.

But I would like to ask the Senator from Ohio to yield for a few questions. I was taken by the three vignettes he just told. They are fairly representative of what I get from Maryland. I would like to talk about the young girl who had graduated and was deluged now with the debt of medical bills and the public option.

Is the Senator familiar with the fact that there are 47 million uninsured in our country? Does the Senator from Ohio know how many of those are between the ages of 18 and 30?

Mr. BROWN. I do not know the precise number. But I know it is millions of them are that age who lose their insurance and do not get insurance and hope they do not get sick.

Ms. MIKULSKI. Well, again, for background in continuing the discussion. That is 35 percent of the uninsured. So is the Senator aware that if we followed through with the HELP Committee bill and the public option and also private sector competing with the public option offer, a reasonably no frills, reasonable cost health insurance bill for young people, especially young people's benefit, that we would cover 35 percent of the uninsured?

Mr. BROWN. I think that is right. As the Senator knows as a senior member of the HELP Committee who wrote some major part of this bill, we are not only going help those 25-, 28-year-olds buy insurance through the public option or through private insurance, as the Senator suggests, we also, if they are low or moderate income, give them assistance to be able to afford these plans.

We are not going to say: Go out and buy insurance. We are going to keep the cost down through competition but also help them with some kind of subsidies to help them buy that insurance.

Ms. MIKULSKI. Can I go to the man who sands floors for a living, the small businessperson whom we worry about who is a self-employed person. Under the Senator's concept of a public option, is it true then that whether it is he or a florist, maybe a real estate agent, that one of the reasons they could afford it is they could go into the health exchange or the public option—would the public option not only offer insurance but offer bargaining power for better prices on insurance? They could bargain for better prices from hospitals, doctors, and pharmaceuticals?

Mr. BROWN. That is exactly right.

Ms. MIKULSKI. In other words, why would a little guy or gal not only want to be able to buy in, not only would the price be exorbitant, or is it that it would be an Uncle Sam's club that is buying things at bulk rate that enables them to afford the services?

Mr. BROWN. The Senator makes a terrific point. The man she talked about, Jason from Cleveland, who sands and refinishes hardwood floors, he was only in a group of four. You can't get good prices in a group of four. He would be joining a group of millions, whether he chooses a private company or especially the public option. The Senator knows, from her work with the number of Federal employees she has in the Washington, DC, area and the suburbs of Maryland that the Veterans' Administration is able to negotiate for prescription drugs. The VA pays probably no more than half as much for prescription drugs as any of us going to the drugstore would pay. The public option will work the same way. They will use the size. The larger pool of employees will be able to get much less expensive hospital, doctor, and prescription drug costs.

Ms. MIKULSKI. I thank the Senator.

Mr. BROWN. I thank the Chair 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. HATCH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

USA PATRIOT ACT SUNSET EXTENSION ACT

Mr. HATCH. Mr. President, today I rise to express my concerns about the PATRIOT Act Sunset Extension Act. This bill, which is currently before the Senate Judiciary Committee, could have dire consequences on intelligence collection and investigations. While I have several concerns about the provisions in this bill and how they will adversely affect the intelligence community, particular attention should be given to what our intelligence professionals have said about this bill.

Stakeholders in the intelligence community and the FBI have expressed concern that this bill will have serious consequences on the tools those agencies rely on to carry out intelligence investigations, identify operatives, and prevent future attacks. These tools are critical for detecting and disrupting terrorist plots in the United States before they become imminent threats to our safety.

As we have seen in the past few weeks, investigations in Texas, Illinois, Colorado, and New York confirm what we already know: there are people in this country who want to and intend to harm us. The only way to stop these terrorist operatives is to give our counterterrorism specialists the tools they depend on to detect these plots, thwart attacks, and, if possible, arrest the persons planning these operations.

I am troubled by the fact that we are rushing this bill through committee without taking the time to consider the concerns of those charged with detecting terrorist plots. I urge my colleagues who are ready to stand up and say this bill will not adversely affect current and future investigations to stop for a moment and listen to the professionals who use and need these tools on a daily basis. Do not just hear their concerns, really listen to them. Many of these professionals were around before September 11, and they remember how difficult it was to act quickly to collect basic information about terrorists.

Three provisions of the PATRIOT Act are set to expire on December 31, 2009. These are roving wiretaps; business records access, also referred to as section 215 business records; and the lone wolf provision. At this time, the lone wolf provision has yet to be used. It was created in response to the Moussaoui case. The provision amended FISA's definition of an ''agent of a foreign power'' to include any person, other than a U.S. person, who ''engages in international terrorism or activities in preparation therefore.''

The expanded definition allows the government to obtain a FISA, Foreign Intelligence Surveillance Act, court order to surveil a non-U.S. person who has no known ties to a group or entity. Congress passed this lone wolf provision because it was concerned that previous FISA definitions did not cover unaffiliated individuals—or those for whom no affiliation can be established—who, nonetheless, engage or are preparing to engage in international terrorism.

FBI Director Mueller has asked specifically that this authority be extended so if the FBI comes across another ''Moussaoui,'' there will be no doubt that the FBI can intercept that target's communications. This seems reasonable to me. We would not tell a police officer he had to give up his gun simply because he has not used it yet, would we?

The other two provisions set to expire are roving wiretaps and business records searches. These tools are extremely important in the FBI's investigative work, and the FBI has a solid track record of using them too. From 2004 through 2008, the FBI has obtained 236 orders from the FISA court to produce business records. The business records authority has been exceptionally useful in many types of national security investigations. It routinely gives the intelligence community important information that can be used

to build the case for FISA searches or surveillances of terror suspects.

Roving wiretap authority has similarly increased the FBI's efficiency in critical investigations. The FBI has obtained roving wiretap authority an average of 22 times per year. During the Senate Judiciary Committee's oversight hearing of the FBI, I asked Director Mueller if he supported the reauthorization of these tools. He told me these tools are extremely important to investigations, and he hoped the tools would be extended. Director Mueller has repeatedly expressed his support of these tools to other Senators and committees.

In September, Director Mueller appeared before the Senate Homeland Security and Governmental Affairs Committee. Chairman LIEBERMAN asked the Director if there was one thing that the Bureau needed that would assist in its counterterrorism mission. Director Mueller responded by saying:

I'll leap into the fray and say yes, the PATRIOT Act is going to be debated. I know these provisions are essential to us, particularly the first two which relate to business records and secondly the roving wiretaps. And third, while it has not been used, the lone wolf will be and is important if we get a similar situation that we had with Moussaoui in 2001. So I would urge the reenactment of those provisions.

In his response to Chairman LIEBERMAN, Director Mueller also endorsed National Security Letters as a vital tool in gathering information. He further stated that NSLs contribute to the success of investigations through ''information we can gather, not of substantive conversations but of tag data or the telephone toll data that we can obtain by reason of National Security Letters. So it is retaining these capabilities that is important.

National Security Letters have come under fire from some on the left, and the substitute takes aim at them as well. Currently, NSLs cannot be used to wiretap citizens, scan e-mails, or conduct any kind of intrusive surveillance. NSLs simply allow the government to retrieve the sort of transactional records that are extremely useful in uncovering terrorist activities.

NSLs are the most effective method of obtaining this routine data that is critical to detecting, monitoring, and undermining terrorist activities. They are also regularly used to rule out individuals as terror suspects. Intelligence investigations are a mosaic. Each bit of information is laid out and compared to other data. When these records are compared to other facts or information, they become the tiles that compose the picture and provide investigators with the identities of confederates and operatives.

The Supreme Court has clearly stated the fourth amendment is not implicated when these types of records, held by third parties, are shared with the government. The High Court has reasoned that citizens hold no expectation of privacy when such records are created through business transactions or otherwise.

The same records and data are just as easily obtained by investigators in criminal cases when they seek this information through an administrative or grand jury subpoena. This information is routinely obtained with little oversight in criminal investigations. NSLs are narrow in scope and already have multiple layers of oversight and built in protections for privacy.

Some on the left have maligned NSLs as a sinister and baleful device from George Orwell's ''1984.'' The source of this accusation is clear: these critics have misread the findings outlined in the DOJ inspector general reviews of the FBI's use of National Security Letters.

In March 2007, the inspector general released its first report in which it criticized aspects of the FBI's use and record keeping of NSLs. I have reviewed the full report and it is clear to me that the errors identified by the IG with respect to NSLs are largely administrative in nature. Some critics have been quick to point to the IG's criticism of the FBI's use of what are called ''exigent letters'' as a reason to clamp down on the use of NSLs. But this is simply not supported by the evidence. Exigent letters are not—I repeat not—national security letters and the IG's findings should have no impact on whether current NSL authorities remain intact.

In March 2008, the IG issued a second report that reviewed the corrective measures as a result of the first report. The IG found that the FBI and DOJ were committed to correcting and improving the earlier identified administrative problems with NSLs. The report also stated that the FBI has made significant progress in addressing compliance issues and implementing recommendations.

Under the leadership of Director Mueller, the FBI has made great strides in correcting previous errors associated with NSLs. For example, they have revised and clarified policies and increased training on the proper issuance and handling of NSLs. They created the Office of Integrity and Compliance to ensure that the FBI continues to comply with applicable statutes, guidelines, and policies.

Most significantly, the FBI mandated the use of a Web-based, automated NSL creation system that prompts the drafter to enter all information necessary to create an NSL. This system supplies the appropriate statutory language and ensures that the NSL and the supporting memorandum are internally consistent. An NSL can be issued from this system only after all the required officials have approved it within the system. This system will go a long way toward curing the administrative errors identified by the IG.

Although both reports show that the FBI has sometimes struggled to measure up to its own internal standards in using NSLs, they also reveal that incidents of misuse were infrequent and unintentional. In short, there were no abuses of NSLs as we have so often been led to believe. It is my opinion—and many in the FBI and Congress share this opinion—that the administrative errors identified by the IG could be solved easily if the FBI had a national security administrative subpoena—one type of subpoena for all national security records—just as the FBI, DEA, postal inspector, and a host of other agencies have in other types of criminal and administrative matters.

Those on the left who would prefer that the FBI not have NSL authority ignore the many investigative successes attributed to this basic tool outlined in the IG reports. For example, NSLs have provided information identifying terrorist financiers, revealed key information regarding pre-attack behavior, and detected an attempted espionage plot by a government contractor. The reports are unequivocal: NSLs are indispensable tools to national security investigations. Unfortunately, certain provisions in the S. 1692 substitute will undoubtedly have a negative effect on their operational efficaciousness.

But NSLs aren't the only tool that will suffer under this substitute. New and, frankly, unprecedented minimization requirements would wreak havoc on ordinary pen registers; unreasonable and confusing standards of proof will delay, and even prevent, usage of basic tools; new reporting requirements could compromise sources and methods; and sneak-and-peek search warrants have been rendered useless. My greatest fear is that this bill will reduce our terrorist detention capability to the standard we possessed in the days preceding the horrific attacks of September 11, 2001.

I have a profound respect for the fine men and women who serve our country in our law enforcement and intelligence communities. Their focus, vigilance, and attention to detail are critical in intelligence collection, analysis, and detection of terrorist plots. Only occasionally, as in the past few weeks, does the American public hear about the successes that their tireless efforts and these basic tools bring about. But here in Congress, we know the truth and we should do all in our power to help these professionals do their jobs. I am reminded of the quote attributed to British Prime Minister Winston Churchill, who said:

We sleep sound in our beds because rough men stand ready in the night to visit violence on those who would do us harm.

We should never lose sight of the fact that we are at war. One of our greatest assets in this war is the ability to detect, investigate, and disrupt terrorist plots, the purpose of which is to harm our citizens on our own soil.

Neither this substitute nor its original bill is an improvement to the PATRIOT Act. I believe firmly that this bill could reduce our intelligence collection capability to the level that existed before the attacks of 9/11. I urge

my colleagues to take careful notice of the operational disadvantages in this substitute. The best path forward is clear. Congress should simply vote to extend the sunsets on the three expiring PATRIOT Act provisions and reject any measure that would tie the hands of those charged with safekeeping and safeguarding our great Nation.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. KAUFMAN. Mr. President, I thank Chairman MIKULSKI and Ranking Member SHELBY for their work on this bill. I rise today to speak about the importance of strengthening the Federal Government's ability to investigate and prosecute the kinds of financial crimes that have contributed to our financial crisis. I am pleased this appropriations bill adds significant resources for fraud enforcement, thanks to Chairwoman MIKULSKI and her committee and their attention to this critical issue.

In May, Congress passed the Fraud Enforcement and Recovery Act or FERA. In the aftermath of September 11, Federal law enforcement resources were shifted dramatically, and understandably, to counterterrorism.

One of the central features of FERA was to authorize the appropriation of substantial resources to rebuild our capacity to attack mortgage fraud and other white-collar crime. FERA was passed with overwhelming bipartisan support. The vote was 92 to 4 in the Senate, demonstrating our shared commitment to this effort.

Today's economic crisis has many causes, from serious regulatory failures to recklessness and greed. While we still have much to learn about what happened, one thing is absolutely certain: We need law enforcement investigators and prosecutors with ample resources and training to drill down now. Only a targeted and thorough investigation can find out the extent to which financial fraud contributed to the crisis and identify the individuals involved who should be held responsible.

We need to look at the mortgage brokers who engaged in systemic fraud. But we must also examine the financial institutions that pooled subprime mortgages and sold them with knowledge that they were toxic, the credit rating agencies that failed due to conflicts of interest to grade the assets properly, and the investment banks that failed to disclose the fair value of the toxic assets on their books.

In order to restore the public's faith in our financial markets and in the rule of law, we must identify, prosecute, and send to prison those individuals who broke the law. If we do less than that, we will fail to serve the American public and we will risk history repeating itself. But these cases are extremely complex. In this area, the bad guys have substantial resources at their disposal to fend off investigations. We need to remain vigilant in ensuring that our investigators and prosecutors are not overmatched.

That is why I am pleased to see the substantial resources devoted to fraud enforcement in this bill. The bill appropriates over $500 million for fraud enforcement, a 10-percent increase over last year. At the FBI, it adds funding for 50 new agents, 61 new forensic accountants, and 32 professional support staff, all devoted to investigating financial fraud. As a result of this increase and other resource allocation decisions by the FBI, we now will have investigative resources approaching those devoted to the savings and loan crisis. The bill also adds funding for 155 new lawyers and 49 support staff in the Department of Justice and U.S. Attorneys offices, all dedicated to financial fraud enforcement.

I was proud to join with Chairman LEAHY and Senator GRASSLEY in sponsoring the Fraud Enforcement and Recovery Act. I look forward to working with them and our colleagues on the Judiciary Committee to make sure these significant new resources are used wisely and effectively.

In closing, I thank Chairman INOUYE as well as, again, Chairwoman MIKULSKI and Ranking Member SHELBY for making funding for financial fraud enforcement a high priority of this bill. I look forward to working together going forward to make sure that as the economy recovers, we do not lose sight of the importance of fully funding enforcement efforts, not only to uncover and prosecute financial crimes that have already been committed but also to defer future crimes. Prosecuting bad people won't put an end to bad behavior, but it will have an impact on those people in the mortgage industry, on the trading desks, and in the boardrooms who might be tempted to put greed ahead of the law.

Thank you, Mr. President. I yield the floor and note the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

The PRESIDING OFFICER. The Senator from Georgia.

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

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

Mr. CHAMBLISS. I ask unanimous consent to speak as in morning business.

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

RECOGNIZING EARL AND WANDA BARRS

Mr. CHAMBLISS. Mr. President, I rise today to recognize two of my constituents, Earl and Wanda Barrs from Cochran, GA. Last Wednesday, the American Tree Farm System named Earl and Wanda as its 2009 National Outstanding Tree Farmers of the Year. This award is presented by the American Forest Foundation through its ATFS program and recognizes outstanding sustainable forest management on family-owned woodlands.

I have known Earl and Wanda since my early days in the House and have always valued their advice and friendship. They have been involved in forestry for over 30 years and have owned and operated Gully Branch Farm since 1987 when they purchased the initial acreage.

This land is very special to the Barrs and they have a long family history connected to it. Earl's great-grandfather and grandfather sharecropped the land for years and, as a teenager, he spent countless hours hunting and fishing there.

Wanda has used her background in education to create an outdoor environmental classroom at the farm. Students, teachers, and forestry professionals from all over Georgia visit their farm to learn about the benefits and science of sustainable forestry. They are then able to take that knowledge back to their respective communities and teach others about the importance of forest stewardship. Every April, the Bleckley County Schools bring thousands of students to Gulley Branch farm to have fun and participate in educational activities. Students enjoy wagon rides and learn about the different aspects of sustainable forest management.

This is not the first time Earl and Wanda have been recognized for their achievements in forestry. They were named the 2008 Georgia Tree Farmers of the Year and the 2009 Southern Regional Tree Farmers of the Year. In 2006, they received the Outstanding Achievements in Sustainable Forestry Award, and Wanda has been named the Georgia Project Learning Tree Educator of the Year in both 1990 and 1995, as well as the National Outstanding Educator of the Year in 1996.

I am proud to see the National Tree Farm of the Year award brought to Georgia and look forward to continuing to work with Earl and Wanda to develop policies that will promote sustainable forestry management for generations to come.

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

The PRESIDING OFFICER (Ms. STABENOW). The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

TRIBUTE TO SENATOR EDWARD M. KENNEDY

Mr. INHOFE. Madam President, it was called to my attention a few minutes ago that our deadline for comments about Ted Kennedy is coming up tomorrow. I wanted to beat the deadline. I always wait until the last minute, it seems. One of the reasons I did is because there are so many things

people are not aware of, so I took the time to send to places such as Western Sahara and elsewhere to get documents that better explained a little bit more about who Ted Kennedy was than has already been stated on the floor of the Senate.

I have a good friend whose name is Mouloud Said. He is the Ambassador at Large of Western Sahara. He and I worked together for many years trying to bring some sanity into what has happened over the last 35 years in Western Sahara.

For the record, since people are not aware of this conflict that took place, back in 1975, the Moroccans invaded what was then called Spanish Sahara, later called Western Sahara. There were a lot of people chased out at that time. They fled. War ensued between 1975 and 1991. It continued during that time. When Morocco invaded that area that was later called Western Sahara, the refugees, the people who were living there who rightfully should be in that area, who should be living there today, were chased into Algeria. Tindouf is an area I have been to a couple times. The refugee camps there are so large. There are actually 175,000 refugees who were chased out of Western Sahara and have been wanting to be repatriated ever since then.

One of the former Secretaries of State, James Baker, was a hero in this area. He did the best he could to see that repatriation would take place. It seemed like every time they got close to working out something with Morocco, they would get right up to the altar and then they would cut it off. They would agree something should be done, but as they would come to agreement and get together, Morocco would back down. That took place for a long period of time.

You cannot be empathetic with the people who are there until you have walked through the little alleys and the stucco houses in Tindouf and see how these people are living, hearing their chants, their cries for freedom. Three generations now have been trying to escape, to be repatriated, and it hasn't worked.

I have a letter—I will read part of it—that ties Senator Kennedy and me to this issue. This is from Mouloud Said, who is Ambassador at Large of Western Sahara:

> Indeed, this was precisely the case when Senator James Inhofe and the late Senator Edward Kennedy reached across the political aisle to jointly promote the cause of justice and freedom in the Western Sahara, and respect for human rights of the Sahrawi people. As recognized by the United Nations Charter, the African Union, and the American Constitution, all people have the inalienable right to freedom and self-determination, and the Sahrawi people will be forever indebted to these great Senators for their principled and bipartisan stand on behalf of the Sahrawi's fundamental rights.

That is what it is all about. We would see these people out there, and they had no one to take care of them. The Moroccans, they have friends. I have to say this: I testified probably 2 or 3 years ago at a House committee hearing. At that time, we made a list of all the lobbyists Morocco had hired. They had everybody. The money was all on one side, and only the Lord and a few people who were sympathetic to them were on the side of those people who have been living on the Algerian border for the last 35 years. That is what they are going through at this time. It is very sad.

I want to mention, talking about Ted Kennedy, how persistent he was. This goes all the way back to his involvement, back to the time when the war was still taking place. I have statements I am going to enter into the RECORD. They are not long. One goes back to October 1, 1992, a ''Statement by Senator Edward M. Kennedy at Senate Foreign Relations Africa Subcommittee Hearing on the Western Sahara.'' He goes through and tells the story of what he has attempted to do, and he had not been able to successfully get it done. The same as with James Baker and myself.

January of 1994, ''Statement by Edward M. Kennedy in Support of Amendment Promoting Implementation of Peace Plan in Western Sahara.'' January of 1994, we thought at that time we had it done. Again, an arrangement was made. It was agreed to by all parties until they got together.

June 23, 1999, ''Senator Kennedy Calls for Greater Progress in the Western Sahara Referendum.'' A referendum is all they want. They want self-determination. They want to be able to vote as to whether they want to be repatriated, which is something we in America would assume everybody has that right. But that is not the situation.

Senator Kennedy, again, went to battle to help them in June 23, 1999, and was not able to get it done.

Then, again, in 2000, he actually offered amendments for holding referendums in Western Sahara.

Later in that same year, he appealed to King Mohammed VI of Morocco to give these people a chance, at least, of self-determination. He was unable to get that done.

I ask unanimous consent to have printed in the RECORD these documents.

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

STATEMENT BY SENATOR EDWARD M. KENNEDY AT SENATE FOREIGN RELATIONS AFRICA SUBCOMMITTEE HEARING ON THE WESTERN SAHARA

I want to thank Senator Simon, the Subcommittee Chairman, for holding this important hearing today.

The ongoing crisis in the Western Sahara raises serious questions regarding the Government of Morocco's willingness to honor its international commitment to a free and fair referendum in that territory. It also brings into question the credibility of the United Nations in administering the Western Saharan peace plan, and our own government's commitment to the principles of sovereignty and self-determination.

Barring immediate and dramatic progress, the peace plan for the Western Sahara is destined to fail. If the peace plan is to succeed, the United States must do more to make clear—through deed as well as word—its commitment to a free and fair referendum for the indigenous Saharawi people.

The Western Sahara is the last vestige of colonialism in Africa. The U.N. Decolonization Committee called for decolonization in 1966, while it was still under Spanish rule. In 1973, the General Assembly called for a referendum on self-determination by the Saharawi, Spain agreed to hold a referendum and took a census to provide a voting list.

Shortly thereafter, Morocco and Mauritania, seeking access to the territory's valuable natural resources, laid claim to the Western Sahara. In an effort to strengthen its claim to the territory, Morocco requested an advisory opinion from the International Court of Justice on its legal status. The Court found that neither Morocco nor Mauritania had ties to the Western Sahara sufficient for claims of territorial sovereignty. Like the United Nations, The Court supported ''self-determination and genuine expression of the will of the peoples'' to determine the territory's legal status.

Rather than accept that decision, King Hassan II sent Moroccan troops into the Western Sahara. Clashes ensued between Moroccan forces and the Polisario, the armed resistance of the Saharawi. Invading troops ''disappeared'' thousands of Saharawi civilians, most of whom were killed. Hundreds of others were detained without charge—and remain imprisoned today.

The Moroccan invasion touched off an exodus of refugees from the Western Sahara into Algeria. Seventeen years later, tens of thousands of these refugees continue to subsist in emergency relief tents with minimal food and water under extremely oppressive desert conditions including violent sandstorms and blistering heat exceeding 160 degrees.

In what became known as the ''Green March,'' King Hassan then sent 350,000 Moroccan civilians into the territory to strengthen his claim. Within months of the Moroccan influx Spain withdrew, granting Morocco and Mauritania ''temporary authority'' to administer the territory until a referendum could be held.

Neither Morocco nor Mauritania granted the Saharawi the right to self-determination, and their war against the Polisario steadily escalated. The Polisario's use of land rovers and quick strike tactics, however, achieved surprising successes against Moroccan and Mauritanian forces, and in 1979 Mauritania renounced its claims to the territory.

Finally, after over a decade of war, the Government of Morocco agreed to a U.N.-sponsored peace plan leading to a referendum, under which the Saharawi would vote for independence or integration with Morocco. In 1990, the Security Council adopted resolutions approving the plan and establishing the United Nations Mission for the Referendum in Western Sahara (MINURSO).

Under the plan, a cease-fire was to go into effect on September 6, 1991, and the referendum was to be held in early 1992. The parties agreed to use the 1974 Spanish census, which recorded approximately 74,000 Saharawis, to establish a voting list for the referendum.

Yet, only days before the cease-fire was to go into effect, Morocco bombed a compound that the Saharawi had constructed to house MINURSO personnel.

Inexplicably, the United States was the sole country on the U.N. Security Council which failed to condemn this outrageous action.

After the cease-fire went into effect, King Hassan changed his position on the voting list. After vmg agreed to base the list upon the 1974 census, he presented the U.N. with a list of 120,000 additional voters from Morocco whom he claimed were Saharawi and should also be permitted to vote. These individuals were transported into the Western Sahara in violation of the peace plan, which forbids the unilateral transfer of populations into the territory without identification at the border by U.N. personnel.

Under the peace plan, MINURSO observers are to implement and monitor the cease-fire, oversee the release of POWs, identify and register voters, and organize the referendum. Fully employed, MINURSO was to consist of 1,695 military and civilian personnel.

Yet as of today, nine months after the referendum was to have been held, fewer than 400 MINURSO personnel are in the Western Sahara. With severely limited equipment and personnel, these observers have been forced to restrict their focus to monitoring the cease-fire. Due to serious violations of the peace plan by the Government of Morocco, the observers have been prevented from fostering an atmosphere of confidence and stability conducive to holding a free and fair referendum.

These violations include preventing critical supplies for U.N. personnel from reaching the field; denying U.N. observers access to military areas; threatening to shoot U.N. personnel; intercepting and blocking U.N. patrols and sideswiping U.N. vehicles; refusing to identify land mines to U.N. observers, resulting in the loss of three U.N. vehicles and serious injury to U.N. personnel; banning access to the territory by international observers, reporters, and human rights organizations; refusing to withdraw any of its 130,000 troops; and declining to provide figures on the strength and deployment of its armed forces, despite written instructions to do so from the U.N. Secretary General.

Last month, in the most serious violation of the peace process, King Hassan announced his intention to hold his own elections in the territory, independently of the United Nations—thereby wholly undermining the U.N. effort.

Ironically, U.N. observers have also been severely hampered by lack of material and political support from the U.N. in New York, which has routinely ignored Moroccan violations of the peace plan. The Secretary General has failed to respond politically to MINURSO's reports of cease-fire violations—including 178 confirmed violations of the cease-fire, the transfer of thousands of Moroccan citizens to the territory prior to their identification by the U.N., and continuous misbehavior with respect to MINURSO.

Accordingly, MINURSO personnel in the field today are attempting to carry out their duties without the cooperation of the Government of Morocco and without the political backing of the U.N.

Despite Morocco's flagrant violations of the peace plan, the Bush Administration has failed to press King Hassan in any significant manner with respect to the Western Sahara. To the contrary, the Administration has requested that $40 million in military aid and $12 million in Economic Support Funds be earmarked for Morocco for FY '93. This is particularly perplexing, inasmuch as no funds were earmarked for Morocco during FY '92.

I hope that the witnesses for the Administration will make clear today why the U.S. is not condemning Morocco for its violations of the peace plan. The Administration should also explain why it is unwilling to urge the United Nations to do more to defend this important peace initiative.

Failure of the U.N. peace plan will have serious consequences for the stability of North Africa. Unless the Administration makes clear to the Government of Morocco its commitment to a free and fair referendum for the Saharawi, fighting in the Western Sahara may soon be renewed. That is a result none of us wants, and now is the time to prevent it from happening.

STATEMENT BY SENATOR EDWARD M. KENNEDY IN SUPPORT OF AMENDMENT PROMOTING IMPLEMENTATION OF PEACE PLAN IN THE WESTERN SAHARA

I am introducing today, on behalf of myself and Senators Pell, Kassebaum, and Simon an amendment to support the indigenous people of the Western Sahara in their long and arduous struggle for self-determination.

As U.S. citizens, we are fortunate to live in a country founded on human rights principles and the right to a government of our own choosing. Our democratic ideals have inspired peoples in all hemispheres around the world. Elections during the past twelve months in Russia, Burundi, Cambodia, Paraguay, and Yemen are examples of the worldwide trend away from authoritarianism and toward representative government.

Sadly, this trend has not yet reached all regions of the world. The indigenous Saharawi people in the Western Sahara have waited more than 18 years to regain their right to self-determination. Hopefully, that right will soon be restored to them.

Since Morocco's invasion of the Western Sahara in 1975, King Hassan II has staged a long and costly war against the Saharawi people to obtain permanent access to that territory's valuable natural resources.

For years, Morocco ignored proposals by the U.N. General Assembly calling for a referendum on self-determination by the Saharawi. When Morocco took its claim over the territory before the International Court of Justice, the Court found that Morocco did not have ties sufficient for claims of territorial sovereignty. Like the United Nations, the Court supported ''self-determination and genuine expression of the will of the peoples'' to determine the territory's legal status.

Rather than accept that decision, King Hassan sent Moroccan troops into the territory who killed and ''disappeared'' thousands of Saharawi who were unwilling to recognize Moroccan sovereignty. Then, in what became known as the ''Green March,'' King Hassan sent 350,000 Moroccan citizens into the Western Sahara to strengthen his claim to it.

Finally, after over a decade of war, the Government of Morocco agreed to a U.N.-sponsored peace plan leading up to a referendum under which the Saharawi would vote for independence or integration with Morocco. Under this plan, a ceasefire was to go into effect on September 6, 1991, and the referendum was to be held in early 1992. The parties agreed to use a 1974 census, which recorded approximately 74,000 Saharawis, to establish a voting list for the referendum.

Yet, only days before the cease-fire was to go into effect, Morocco bombed a compound the Saharawi had constructed to house U.N. personnel. In addition, King Hassan changed his position on the voter list.

After having previously agreed to base the list upon the 1974 census, he presented the U.N. with a list of 170,000 Moroccans whom he claimed should also be permitted to vote. These individuals were moved into the Western Sahara in violation of the peace plan, which forbids the unilateral transfer of population into the territory without prior identification by U.N. personnel.

U.N. observers have also expressed concern regarding other violations of the peace plan by the Government of Morocco. These violations have prevented the observers from fostering an atmosphere of confidence and stability conducive to holding a free and fair referendum.

The violations include preventing critical supplies for U.N. personnel from reaching the field; denying U.N. observers access to military areas; threatening to shoot U.N. personnel; intercepting and blocking U.N. patrols and sideswiping U.N. vehicles; refusing to identify land mines to U.N. observers, resulting in the loss of three U.N. vehicles and serious injury to U.N. personnel; banning access to the territory by international observers, reporters, and human rights organizations; refusing to withdraw its troops; and declining to provide figures on the strength and deployment of its armed forces, despite written instructions to do so from the U.N. Secretary General.

In one of the most serious violations of the peace process, King Hassan held his own elections in the territory in June—thereby directly undermining the U.N. effort.

U.N. officials nonetheless remain hopeful of holding the referendum this year. For the referendum to be free and fair, the U.N. must disqualify Moroccan settlers from eligibility to vote in the referendum.

Failure of the U.N. peace plan is likely to have serious consequences for the stability of North Africa. If the Government of Morocco continues to obstruct the peace process, fighting in the Western Sahara may well be renewed.

At this critical stage in the peace process the United States must do more to make clear—through deed as well as word—our commitment to a free and fair referendum for the Saharawi people.

The amendment we are introducing today:

(1) Commends the President for his commitment within the United Nations and in bilateral relations to a free and fair referendum on self-determination in the Western Sahara;

(2) Supports the United Nations' commitment to holding a free and fair referendum, and commends the Secretary General for intensifying his efforts towards that end;

(3) Commends the Administration for undertaking new policy initiatives with regard to the Western Sahara, including the opening of contacts with the Polisario Front at the Saharawi refugee camp in Tindouf, Algeria;

(4) Calls upon Morocco and the Polisario Front to comply strictly with the terms of the peace plan as accepted by the parties and approved by the United Nations Security Council;

(5) Calls upon Morocco to put an end to the transfer of population not properly identified by the United Nations as eligible voters in the referendum from Morocco into the Western Sahara, and to return to Morocco all such individuals currently in the Western Sahara;

(6) Calls upon Morocco and the Polisario Front to continue the direct dialogue they begun under the auspices of the United Nations in July 1993 with the goal of furthering the peace process;

(7) Calls upon Morocco and the Polisario Front to allow international human rights organizations to enter Morocco, the Western Sahara, and refugee camps under their control to assess the human rights situation; and

(8) Calls upon the President to:

Strongly advocate within the United Nations and in bilateral relations the implementation of the peace plan as accepted by the Polisario Front and Morocco and approved by the U.N. Security Council;

Urge all parties concerned to take all steps necessary to begin voter registration, starting with the updated lists of the 1974 Spanish census, and to overcome their differences regarding the interpretation and application of the criteria for voter eligibility;

Institute regular contact at all levels in Washington with representatives of the Polisario Front, in order to strengthen the United States' evenhanded position with respect to the Western Sahara; and

Encourage the parties to allow independent international observers, including human rights organizations, to monitor the situation in the territory and observe the referendum process.

The ongoing crisis in the Western Sahara raises serious questions regarding the Government of Morocco's willingness to honor its international commitment to a free and fair referendum in the Western Sahara. This amendment would make clear our government's support for the U.N. peace process and America's commitment to the principles of sovereignty and self-determination.

I urge my colleagues to join us in enacting this timely and important measure.

SENATOR KENNEDY CALLS FOR GREATER PROGRESS ON WESTERN SAHARA REFERENDUM

Senator Edward M. Kennedy today praised the Senate for calling for greater progress on a long-stalled referendum on self-determination for the people of the Western Sahara.

Since 1988, the United Nations has sought to organize a free, fair, and open referendum in the Western Sahara, the former Spanish colony that Morocco has illegally occupied since 1975.

Kennedy said, ''A solution to the conflict over the Western Sahara will enhance security and stability in Northern Africa. After more than ten years of delay, the people of the Western Sahara should be permitted to determine for themselves who will govern them.''

Kennedy, Republican Senator Gordon Smith, and Democratic Senator Patrick Leahy sponsored an amendment accepted by the Senate on the State Department Reauthorization Bill to require the State Department to report on progress on the referendum. The bill, including the Western Sahara amendment, was passed by the Senate yesterday.

The International Court of Justice, the Organization of African Unity, the United States, and many other nations throughout the world have not recognized Morocco's claim to the Western Sahara, but Morocco's occupation continues. Tens of thousands of the Sahrawi people languish in refugee camps in southern Algeria and have been denied the opportunity to determine their own future.

A UN referendum was originally scheduled for 1992. It has since been delayed many times, primarily due to the resistance of the Government of Morocco. The referendum is now scheduled for July 2000.

In the 1997 Houston Accords, achieved under the leadership of former Secretary of State James Baker, and in a UN plan last December, the international community called for the conclusion of the voter registration process and a referendum. Morocco subsequently agreed to allow the referendum to occur by July 2000.

Senator Kennedy praised the Administration's efforts to resolve this longstanding dispute. He urged the State Department to make it clear to both parties to this dispute that the United States expects the people of the Western Sahara to be allowed to exercise their right to self-determination in a free, fair, and open referendum by July 2,000.

''Morocco has been a faithful ally of the United States for more than 200 years,'' said Kennedy, ''but its refusal to allow the people of the Western Sahara to determine their own political future undercuts America's efforts to promote democracy worldwide.''

The Kennedy-Smith-Leahy amendment requires the State Department to report on January 1, 2000 and again on June 1—2000 on specific steps being taken by the Government of Morocco and by the Popular Front for the Liberation of Saguia el-Hamra and Rio de Oro (POLISARIO) to ensure a free, fair, and open referendum by July 2000 for the people of the Western Sahara to choose between independence and integration with Morocco.

The State Department reports will include a description of preparations for the referendum and the extent to which free access to the territory will be guaranteed for independent and international organizations, including election observers and international media. Human rights organizations and other international organizations must also be permitted to observe the referendum.

In addition, the reports will include a description of current efforts by the Department of State to ensure that the referendum will be held, and an assessment of the likelihood that the July 2000 date will be met.

The reports will also include a description of obstacles, if any, to the voter registration process and other preparations for the referendum and efforts being made: by the parties and the United States Government to overcome those obstacles. Finally, the reports will include an assessment of progress being made in the repatriation process.

(Purpose: To require reports with respect to the holding of a referendum on Western Sahara)

On page 115; after line 18, add the following new section:

SEC. __. REPORTS WITH RESPECT TO A REFERENDUM ON WESTERN SAHARA.

(a) REPORTS REQUIRED.—

(1) IN GENERAL.—Not later than each of the dates specified in paragraph (2)1 the Secretary of State shall submit a report to the appropriate Congressional committees describing specific steps being taken by the Government of Morocco and by the Popular Front for the Liberation of Saguia el-Hamra and Rio de Oro (POLIS—RIO) to ensure that a referendum in which the people of the Western Sahara will choose between independence and integration with Morocco will be held by March 2000.

(2) DEADLINES FOR SUBMISSION OF REPORTS.—The dates referred to in paragraph (1) are November 1, 1999, and February 1, 2000.

(b) REPORT ELEMENTS.—The report shall include—

(1) a description of preparations for the referendum,

(2) a description of current efforts by the Department of State to ensure that a referendum will be held by March 2000;

(3) an assessment of the likelihood that the March 2000 date will be met,

(4) a description of obstacles, if any, to the voter-registration process and other preparations for the referendum, and efforts being made by the parties and the United States Government to overcome those obstacles;

(5) an assessment of progress being made in the repatriation process; and

---

STATEMENT OF SENATOR EDWARD M. KENNEDY ON IDS MEETING WITH KING MOHAMMED VI OF MOROCCO

I welcome this opportunity to meet with the King. I have great respect for his leadership, and I wished him well in his important responsibilities, and in maintaining close ties between our nations.

A particular issue I discussed with the King was the United Nations referendum on the Western Sahara.

Morocco gained the respect of the international community when it agreed in 1991 and again in 1997 to allow a referendum on the future of the Western Sahara. These actions demonstrated an impressive commitment to the right of self-determination for the people of the Western Sahara.

The referendum is an important part of the peace process, and I hope that it will take place as soon as possible.

Mr. INHOFE. Madam President, let me conclude by saying that other things were happening too. When you think about countries, I often said Africa is the forgotten continent. I can remember so well back when they were talking about taking our troops into Bosnia and then later Kosovo, the excuse they were using—this is back in the Clinton administration—they were saying it was ethnic cleansing taking place there. I said on the Senate floor standing at this podium—this is way back in the late nineties—I said for every person who has been ethnically cleansed in Bosnia, there are hundreds on any given day in any Western Africa country. But people did not care about it. Senator Kennedy did.

I know this is a little bit sensitive subject, but even to this day, right now, every other week, there is a group of people, staff people, who get together. They have nothing in common except a heart for Africa. There are liberal Democrats and conservative Republicans. They meet every other week, in Senator Kennedy's office and then in my office, and they pray for Africa. This is something about Senator Kennedy people did not know. That is something that takes place even to this date.

I have a letter written recently by Lindsey Gilchrist of Senator Kennedy's office:

I know Senator Kennedy and Senator Inhofe had always been thought of as the bipartisan leaders on this issue. The Africa prayer group was not something Senator Kennedy was directly involved in [or Senator Inhofe]—

But they have stimulated and motivated us to do this very thing. That was one of the things that occupied 20 years of Senator Kennedy's time. I feel committed to continuing to work with the people of Western Sahara to try to make that a reality. When that happens, we are going to be able to say—he will be watching down: All right, we finally did it.

Let me share a couple personal experiences I had with Senator Kennedy. One is a little bit humorous. In 2005, the Republicans were in the majority. I was chairman of the Environment and Public Works Committee. We did the 2005 transportation reauthorization bill. It was a huge thing. I am a conservative, but this is something we need to be doing in this country, something about infrastructure.

As is always the custom of the Senate, as the Chair is well aware, when we pass a big bill, we stand on the floor and thank all the staff people and talk about the significance of it and how important it is.

We had just passed the bill when I was getting ready to make my speech about what a great job we did when the

bells went off. They said: Bomb threat, bomb threat; evacuate, evacuate. Everybody started running. I had not made my speech yet, so I stood up. It is kind of eerie when you are the only person in the Capitol and giving a speech. Of course, there was nobody here, and the cameras were still going.

I remember, after finishing my speech, I looked down at the bottom of the stairs and saw a very large man walking out. I went down and I said: Ted, we better get out; this place might blow up.

He said: Well, JIM, these old legs don't work like they used to.

I said: Let me help you. It happened, by the way, this was right after the American Conservative Union came out with the ratings where I was the No. 1 most conservative Member of the Senate and he was the second from the most liberal Member of the Senate. I said: Let me help you. I put my arm around his waist and he put his arm around my arm. Someone took a picture. It ended up on the front page of a magazine. The caption was: ''Who Says Conservatives are Not Compassionate?'' That is the kind of relationship we had. I will always remember this.

He did things that people are not expected to do. There was a show—they don't have it on television anymore—called ''Crossfire.'' Some might remember that. It was an aggressive program, where you get two people debating each other on an issue. The issue that particular day—this was back in 2000—was Vieques. Vieques is an island off Puerto Rico. They were trying to shut it down. They were successful. I don't blame it on the Democrats or Republicans. President Bush went along with Al Gore and closed down the live range at Vieques, which was the only place the Navy and marines could do integrated training.

I was actually debating Bobby Kennedy—he was his nephew—on the ''Crossfire'' show. It was one of these things where I really knew the issue. I knew I had him on this debate. It came down to the end, and I could have put the knife in at that time. I didn't have the heart to do it.

I was sitting, Madam President, where you are sitting the next day, presiding over the Senate, and Ted Kennedy came up. He said: Well, JIM, I came up to say thank you.

Thank you for what?

He said: I was watching this debate you had last night, and I knew what you were thinking and I knew that you had won this thing and right at the last you could have inflicted great harm to Bobby. You elected not to do it. I want to tell you I appreciate it very much.

That was Senator Kennedy.

There are things still going on today to which he committed his life. We are going to win some of those, and we are going to rejoice when that happens. He will be right here with us.

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

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

CBO SCORES

Mr. BAUCUS. Madam President, the Congressional Budget Office has issued its report on the Finance Committee legislation. That bill was sent over to the Congressional Budget Office a couple days ago. The report is quite promising. The report is good news.

Our balanced approach in the Finance Committee to health reform has paid off once again. Today, the Congressional Budget Office confirmed that America's Healthy Future Act—that is the legislation in the Finance Committee—remains fully paid for and reduces the Federal deficit. In fact, it reduces the deficit by $81 billion in the first 10 years.

CBO also says in its report that the legislation continues to reduce the deficit in the second 10 years; that is, it bends the cost curve in the second 10 years as well.

More important, it improves and expands health care coverage for tens of millions of American families. That is done by raising the coverage rate of 83 percent to 94 percent. In fact, that might be a slight increase from what we earlier anticipated in the committee bill.

This legislation, I believe, is a smart investment on the Federal balance sheet. It is an even smarter investment for American families, businesses, and our economy. Health reform will modernize the health care system for America for the 21st century. It is about time we got to that point.

The bill also reduces inefficiencies and focuses on quality and ensures we are getting the best bang for our health care buck.

Health care reform should be fiscally responsible as it expands and improves coverage. CBO confirms the legislation does that.

I am very pleased with that report. It will help us move toward the next steps in merging the bill with the HELP Committee bill.

Madam President, I yield the floor.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. COBURN. 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. COBURN. Madam President, may I ask the Chair what is the pending amendment?

The PRESIDING OFFICER. The pending amendment is the amendment offered by Senator VITTER, No. 2644.

Mr. COBURN. I thank the Chair.

Madam President, I just walked out of a hearing on the census, and the Vitter amendment applies to that. It is interesting. We send a million forms out a year called the American Community Survey, and in that survey we ask people whether they are citizens of the United States. And you know what, they answer it. They give an answer to that. And that is a million of those we send out every year.

We are about to conduct a census that ignores the Constitution and will, in fact, disrupt the true allocation of apportionment in this country because the census we are getting ready to ask will ignore whether you are a true citizen of this country. Legal or otherwise, it will ignore that. It will ignore whether you have voting rights, whether you are here properly, whether you have broken our laws and are here improperly, and we will see a maldistribution to the tune of 10 seats in States that shouldn't have them and States that should have 10 more seats won't have them. And that is based on the Census data this year.

So what Senator VITTER is offering is a response to following the Constitution and also recognizing that we are getting ready to do a census next year that is going to get it wrong. My hope is that my colleagues will consider very carefully that they took an oath to defend the Constitution, and that Constitution speaks very clearly—in this little book—about what the enumeration is supposed to be. It is about citizens of the United States, not residents of the United States. If, in fact, we do this the way it looks like we are going to, what we will be doing is changing our Constitution. What we are actually going to do is we are just going to throw our Constitution down and step on it.

So he is not asking anything from a racial standpoint or anything other than for a fair enumeration by which the Census agrees that if they were to do it properly, they would need to ask that question. They have printed 100 million forms already, and the question is, Do we want to waste that money and throw those forms out? Well, there is an answer to that. All you have to do is put in an insert, and here is question No. 11. That will cost very little money and then we will actually have a true census based on what the Constitution says, not on what we think might politically benefit one State over another.

Madam President, I know the chairman of the Finance Committee is here and would like to make a unanimous consent request, and I will yield to him at this time.

The PRESIDING OFFICER. The Senator from Montana.

UNANIMOUS CONSENT REQUEST—H.R. 3631

Mr. BAUCUS. Madam President, unless the Senate acts soon, millions of seniors and disabled individuals will face sharply higher Medicare premiums next year. In this great recession, we

must act quickly to ensure we do not allow a formulated quirk to punish our seniors on fixed incomes in our financially strapped States.

Many seniors have their Medicare Part B premiums deducted from their monthly Social Security checks. Normally, the Social Security cost-of-living adjustment is greater than the increase in the Part B premium for that year. As a result, the beneficiaries' monthly checks in the new year are greater than their monthly checks were in the last year. But next year there is not likely to be an upward cost-of-living adjustment in Social Security checks. When that happens, most Medicare beneficiaries are held harmless against reductions in their Social Security checks. The Part B premium is reduced so that their monthly Social Security checks in the new year are not less than they were in the prior year.

However, 27 percent of Medicare enrollees do not benefit from hold harmless. The absence of a cost-of-living adjustment will expose these seniors to big premium increases next year. Under current law, these enrollees not only have to pay their own premiums, but they must make up the premiums by the 73 percent of beneficiaries we hold harmless. These 27 percent of Medicare recipients will be forced to shoulder the full load of next year's premium increases. This will mean an increase in premiums up from $96 to $120 a month next year. Who are these recipients? They include low-income beneficiaries who participate in both Medicare and Medicaid. They include new enrollees in Medicare Part B. They also include Medicare Part B enrollees who don't receive Social Security, such as some Federal retirees. They include higher income enrollees who already pay higher premiums.

This burden will hit Medicare beneficiaries hard, but financially strapped States will also feel the effect because State Medicaid Programs pick up the cost of Part B premiums for Medicare beneficiaries who are also eligible for Medicaid. The premium hike would also hit State budgets because of that reason. States all across the Nation are facing huge deficits and difficult choices, and we should not allow this quirk in the law to add to their burden.

The Medicare Premium Fairness Act would correct this. It would ensure that these 27 percent of Medicare beneficiaries would not have to shoulder any additional burden. No Medicare Part B enrollee would face a higher premium next year over this year. The bill would provide security to seniors on fixed incomes. To prevent Federal cost shift to States, the bill would pay for and would tap into the Medicare Improvement Fund, which was created to solve problems such as this.

Inaction on this bill is not an option for seniors and States, and I hope the bill will have broad bipartisan support.

Madam President, I ask unanimous consent that the Finance Committee be discharged from further consideration of H.R. 3631, the Medicare Premium Fairness Act, and the Senate proceed to its immediate consideration; further, that the bill be read a third time and passed, and the motion to reconsider be laid upon the table, with no intervening action or debate.

The PRESIDING OFFICER. Is there objection?

Mr. COBURN. Reserving the right to object, I ask unanimous consent to be recognized for 3 or 4 minutes as I respond to this, if the Senator from Montana does not have any objection.

The PRESIDING OFFICER. Is there objection?

Mr. BAUCUS. None.

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

Mr. COBURN. Madam President, America has to ask itself a question right now. This bill costs $2.8 billion, and 95 percent of the people will not feel anything if we don't do this. But 5 percent will, and I readily admit that. We are going to take $2.8 billion from our kids or from future Medicare payments—one way or the other, we are going to steal it from our kids—to fix a problem for 5 percent of the people who are on Medicare or will be on Medicare.

This is exactly the kind of problem that the Congress ducks. We are ducking it. We are kicking the can down the road because we are afraid to do the right best thing for America.

Let me give a breakdown. First, I will just say I appreciate the leadership of the Senator from Montana on the Finance Committee.

The Social Security Act holds three-quarters of the beneficiaries harmless for increases in the Medicare Part B premium during the years in which there is no COLA, as the chairman just stated. But for the other one-fourth of the beneficiaries not held harmless, little impact will be felt. According to the Congressional Research Service, the majority of this group is comprised of Medicaid, as the chairman just stated, the vast majority of them, which covers their premiums anyway. So if there is a cost transfer, it will be cost-transferred back to the Federal Government anyway because we pay 67 percent of all the Medicaid costs anyway. Finally, the remainder of those not held harmless—high-income individuals making over $85,000 a year as an individual or $170,000 as a couple and new beneficiaries during their first year, for which they will receive Medicare, Social Security, or Medicare Part B benefits—the vast majority of all these people have a supplemental policy, so they won't feel anything.

So what are we doing? We are taking $2.8 billion—and we may be taking it from the Medicare Improvement Fund, which ultimately takes it out of Medicare, or we are going to take it from our grandkids, and we are not going to say that we can't do this. There was no inflation except in health care. And when you look at it, there is actually a negative number, negative inflation. There was actually deflation. Things roughly cost six-tenths of 1 percent less this year than last, and those are the basic necessities of life. And because we don't have the courage to face the situations in front of us, we are just going to kick it down the road. That is what is wrong. That is why we find ourselves with $12 trillion worth of debt, almost now $100 trillion in unfunded liabilities. That is why we find that a child born today has $400,000 in unfunded liabilities, and by the time they are 20 years of age they will be responsible for $800,000 worth of debt on them that they incurred for us.

So I will make two final points. The heritage of this country is for one generation to sacrifice for the next. This generation in this body has turned that upside down, and we are saying to the next two generations: You sacrifice for us because we don't have the courage to make the hard choices. And the hard choices have to be made. We are on an absolutely unsustainable course in this country financially. Read the papers. The dollar is under assault. We are dependent on foreign countries to finance our debt. Our debt will double in the next 5 years and triple in the next 10. And now we are playing the political game of not having a small percentage of seniors having an increase in cost, and mainly those who can afford it.

So the question is, take $2.8 billion from our grandkids, one way or the other, and protect that 5 percent of the seniors, including Bill Gates and every other very rich person in this country, or do as the Honorable STENY HOYER said, the majority leader for the Democrats in the House:

> I don't know how many of you can go to sleep at night worried about whether Ross Perot can pay his premium, but this will freeze Ross Perot's basic premium from going up. I think that as well meaning as this legislation is, it's not about poor seniors, it's about politics.

I recognize this can come back and we will do it, but at this time, for the good of our country, to restore the heritage of our country, Madam President, I have to object.

The PRESIDING OFFICER. Objection is heard.

Mr. BAUCUS. Madam President, I regret that the Senator from Oklahoma feels constrained to object. I will continue to work to see that Medicare beneficiaries are not unfairly harmed. I must also say that this is not for the Ross Perots of the world. There are due eligibles—there are many people who are very poor who will be harmed unless this legislation is passed. I might also say that this bill is paid for, despite the implications to the contrary. It is paid for with funds already set aside at an earlier date in the Medicare Improvement Fund—a fund that was set up for just such purposes. So despite the implications about the future children and grandchildren, the fact is, this is already paid for in funds previously set aside.

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

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

Mr. BAUCUS. Madam President, Hippocrates once said: ''A wise man should consider that health is the greatest of human blessings.''

Every day we see the real-world consequences for Americans who have been deprived of that blessing. A Harvard study found that every year in America, lack of health coverage leads to 45,000 deaths. People without health insurance have a 40 percent higher risk of death than those with private health insurance. No one should die because they cannot afford health care.

Every 30 seconds another American files for bankruptcy after a serious health problem—every 30 seconds. Every year, about 1.5 million families lose their homes to foreclosure. Why? Because of unaffordable medical costs. No one should go bankrupt because they get sick. A Kaiser Family Foundation survey found that health care coverage for the average family now costs more than $13,000 a year. If current trends continue, by the year 2019, 10 years from now, the average family plan will cost more than $30,000 a year.

No one should have to live in fear of financial ruin from crushing insurance premiums. Americans are looking for commonsense solutions to these problems. Americans want a balanced plan that takes the best ideas from both sides. Americans want their leaders to work together to craft a health care package that will get 60 votes it needs to pass.

The Congressional Budget Office has just given us their analysis of legislation we put together in the Finance Committee and it shows that our bill reduces the deficit by $81 billion over 10 years. That is a reduction in the Federal deficit of $81 billion. CBO also says the legislation out of the Finance Committee continues to reduce the deficit in the outyears; that is, the years after 10 years, the second 10 years, and the legislation increases coverage from 83 percent to 94 percent, so 94 percent of Americans will have health insurance.

For 2 years now, that is exactly what we have been doing in the Finance Committee—working to get that result. Over the last 2 years, the Finance Committee has held 20 hearings on health care reform. Last June we held a health care summit at the Library of Congress. The committee held three roundtable discussions with experts on each side of the area, especially on the three major areas of reform. We held roundtables on how health care is delivered, on coverage—that is insurance coverage—and on how to pay for health care. In connection with each roundtable—we had experts around the table, asked lots of questions, the experts just balanced—experts were not chosen for a certain point of view but just to get the facts. The committee put out a detailed option paper after those roundtables and we then held three walk-throughs to hash out those options—walk-throughs to see what might make sense after those walk-throughs.

Six members of the Finance Committee—three Republicans and three Democrats—then had meetings. They held 31 meetings to try to come to a consensus. We held exhaustive meetings and met for more than 61 hours. We went the extra mile.

I might say if a fly on the wall were to watch those six meet, three Republicans and three Democrats, I think Americans would be very proud. This was hard work. It was not ideologically driven. It was based on the facts. We asked questions of experts, actuaries were objective—of the Congressional Budget Office, the Joint Committee on Tax—a very solid effort to try to find out how the various parts would be put together in a balanced and fair way.

I can say the Finance Committee has held the most open and exhaustive consideration of this health care proposal. I put out the starting point and posted it on the Web on September 16. That was nearly a week before we started our markups, a full week notice before we started our markup.

In a first for the committee, we posted every amendment, all 564 of them, on the Web. We had never done that before, all posted, all available to the world. The committee has held a thorough markup, and I know the present occupant of the chair can attest to that. When the committee reconvenes to report the bill, the committee will have met for 8 days. Many of those were long days, often running past 10 o'clock at night. In fact, last Thursday we worked until 2 o'clock in the morning. It has been more than 22 years since the Finance Committee met for 8 days on a single bill. In the committee's consideration, Senators offered and the committee considered about 135 amendments. The committee conducted 79 rollcall votes and the committee adopted 41 amendments.

The result is a balanced, commonsense plan that takes the best ideas from both sides. It is a plan that essentially implements President Obama's vision to improve America's health care and it is a plan designed to get the 60 votes it needs to pass. We have just received from the Congressional Budget Office the numbers that we need to have to proceed to the next step. The CBO says we reduce the deficit by $81 billion in the first 10 years and the legislation that will be reported out of the committee soon will reduce the deficit further in the next 10 years, and it increases coverage to 94 percent.

I am confident that after Senators have had a opportunity to review the CBO numbers the Finance Committee will report the bill. Then we on the Finance Committee expect to work together with the HELP Committee to meld our two bills together. Our colleagues on the HELP Committee have done some wonderful things, especially in the area of prevention, workforce, and quality. We look forward to bringing together the best of both bills.

Then the majority leader will offer the combined bill as an amendment on the floor and I expect we will have a full and vigorous debate here in the Senate. I am proud of our work.

All Americans should have access to affordable, quality health care coverage. Our bill would raise the share of Americans with insurance coverage from about 83 percent currently to 94 percent, and our bill would deliver coverage to millions through new insurance exchanges and to millions more through Medicaid—that is the Finance Committee bill I am discussing.

Our bill would dramatically increase prevention and wellness, will begin shifting health care delivery to the quality of care provided—not the quantity of services rendered but the quality of care provided. It is so important. This is transformative. This is game changing. When we look back several years from now we are going to see this is probably one of the more important items in this legislation because it will begin American health care to focus on where it should be, on quality and teamwork and the patient, more than today, where it is focused on quantity under the fee-for-service system. This is clearly the major, most important part, I think, when we look back at this bill 5, 6, 8, 10 years from now.

The bill also will lower prescription drug costs dramatically for seniors—no small point.

Our bill would reform the insurance market. It would protect those with preexisting conditions. It would prevent insurance companies from discriminating and capping coverage. And it would require insurance companies to renew policies as long as policyholders pay their premiums. No longer would insurance companies be able to drop coverage when people get sick. These reforms would give Americans real savings.

Under the Finance Committee bill, everyone making less than 133 percent of poverty would receive health coverage through Medicaid. Our plan will provide tax credits to help low-and middle-income families buy private insurance coverage. These tax credits would mean that our bill would deliver tax cuts for those whom it affects. Overall taxes would go down for people affected by this bill. These tax credits would help make insurance more affordable.

Some have made some pretty outrageous claims about our bill. Some folks frankly have said some whoppers. Let me take a few minutes to bust some of those myths.

Myth No. 1. Some say our bill cuts benefits for seniors. That is false. Nobody cares more about maintaining Medicare than I do. Medicare benefits will not be reduced under our bill. Seniors will get the same level of benefits they receive today. In fact, seniors have a lot to gain from health care reform by lower prescription drug costs

and more free preventive care such as mammograms and colonoscopies. Plus our bill takes the long view to help preserve the life of the Medicare Program. Our bill puts the Medicare Program on sounder financial footing. Our bill will remove from a system that pays for volume to one that pays for value. It would improve Medicare solvency by reforming the way Medicare delivers health care.

Don't just take my word for it. Don't just take President Obama's word for it. Go to the AARP Web site and see what they say. AARP is probably one of the greatest advocates for seniors. This is what AARP says:

Myth: Health care reform will hurt Medicare.

Fact: None of the health care reform proposals being considered by Congress would cut Medicare benefits or increase your out-of-pocket costs for Medicare services.

That is the conclusion of AARP in their letter to seniors.

Myth No. 2. Some say our bill will lead to rationing because we encourage comparative research. That, too, is false. The Institute of Medicine—MedPAC, that is the bipartisan group, nonpartisan group that advises Congress on Medicare payments—and former CMS administrators have all recommended that Congress invest in research to compare what works and what doesn't work in medicine. Groups such as the American Medical Association and the American Health Association support this idea.

Our bill would set up a nonprofit institute to provide for this ''comparative effectiveness research.'' The goal is better evidence, unbiased information that doctors and patients can use to make better health care decisions. Comparative effectiveness research is about giving doctors and patients the best information available on what works so they can decide, the doctors can decide in consultation with their patients, as to what procedure, what drug, makes most sense and what doesn't.

If one treatment works far better than another, then doctors and patients have a right to know. That is what our bill tries to do, it tries to foster the kind of commonsense research that can get better information in the hands of doctors and patients.

Nothing in our bill would ration care—nothing. The new institute could not make coverage decisions or issue medical guidelines. And our bill would prevent the HHS Secretary from using the research to ration care in any way. The Secretary could never use the evidence to discriminate against individuals based on age, disability, terminal illness, or their preferences between length of life and quality of life.

Calling this rationing only supports a delivery system that is pro-waste and antipatient education. That is what opponents will end up doing. That is the effect of it. That is not the type of care people deserve. They deserve the information that comparative effectiveness research produces to help them make informed health care decisions.

Myth No. 3. Some say our bill will cause premiums to go up. That, too, is false. There are a lot of things in our bill that would cause premiums to go down. Our bill would cut out fraud, waste, and abuse in our health care system. That is going to help. Our bill would spread insurance risk through a much broader population, including younger, healthier people. That would clearly help. And our bill would help to eliminate the cost of uncompensated care, which results in more than $1,000 in additional premium costs each year for American families. The effects of open competition in our new insurance exchange should bring premiums down as well.

CBO has said there are a lot of factors in whether premiums go up or down and, frankly, they punted on a lot of those factors. But in the one part of premium costs about which they did make a projection, CBO said that premiums would go down. In a September 22 letter CBO said:

CBO currently estimates that about 23 percent of premiums for policies that are purchased in nongroup market under current law go toward administrative costs and overhead.

About 23 percent of premiums for policies goes toward administrative costs and overhead. CBO goes on to say:

Under the proposal, that share would be reduced to 4 or 5 percentage points.

So if 23 percent of costs are administrative overhead under the legislation the committee reported out, that should be reduced by 4 or 5 percentage points. That is lower costs, administrative costs, which should result in lower premiums.

Myth No. 4. Some say you will not be able to keep your insurance. That, too, is false. Nothing in our bill would take people's insurance away from them. No one would be forced into a particular plan. This is the central feature of the way we have gone about health care reform. We have not tried to change the employer-based system, a system Americans know and understand. We improve upon it, make it work a lot better. We have not tried to fix something that is not broken. We have an employer-based system and it is very important we improve upon it, not eliminate it.

Some who do not share our best interests assert that cuts to Medicare Advantage will cause some plans no longer to be offered. We do bring the government's subsidies to Medicare Advantage more in line with the government's own commitment to Medicare, but our bill would not cut benefits under Medicare Advantage. Rather, it would cut out waste in the system to ensure that Medicare is sustainable for years to come.

Even after the cost of marketing and delivering benefits and after making a profit, insurance companies are paid about 14 percent more, on average, under Medicare Advantage than under traditional Medicare. Insurance companies pad their pocket with those subsidies. Our bill would end those subsidies for insurance companies.

If insurance plans want to pass cuts along to seniors instead of reducing their huge profits, that is up to them. In a competitive market, it will be hard for plans that do that to keep their customers.

Yes, under our bill Medicare Advantage plans will have to compete in the free market. But that has been true of insurance companies generally for as long as there has been insurance. It is true that we in our bill do not guarantee that the government will keep each and every insurance company in business. We should not and we do not, in our bill, guarantee that each and every insurance plan will continue to be offered. Those are business decisions. Those are decisions for the private sector. And that is where we leave it.

It is absurd to say that people will not be able to keep their insurance because the government is going to trim back wasteful subsidies. That is a pretty absurd statement.

Myth No. 5. Some stated our bill will raise taxes. That is false. In fact, our bill is a tax cut. Our bill will cut taxes for millions of Americans. When fully phased in, our bill will cut taxes by tens of billions of dollars every year. Let me restate that. When fully phased in, our bill will cut taxes by tens of billions of dollars every year. And millions of Americans will be able to use those tax cuts to buy health insurance coverage.

Myth No. 6. Some say that a high-cost premium excise tax will raise taxes on working families. That too is false. The bill levies the high-cost premium excise tax on the insurance companies. It will put downward pressure on insurance company profits. And it will put pressure on insurance companies to offer more efficient insurance plans.

In fact, the Joint Committee on Taxation tells us that much of the revenue that the high-cost premium excise tax brings in is because employers will give workers raises. People will avoid insurance plans with high-cost premiums, and as a result employers will raise workers' salaries with the money they save. That is what the Joint Committee on Taxation predicts will happen. That is what they say over and over again in publicly given testimony.

Finally, the biggest myth of all, myth No. 7. Some say our bill is a government takeover of health care. That is so false. We have built our plan on the exchange marketplace that allows choice among private health insurance company products, choice among private health insurance products.

People will be able to choose their own plan. They can choose their own plans among private options. Our bill does not include a public option. We did not include an employer mandate.

And we pay for every cent. This is a uniquely American solution. We are not Canada. We are not Britain. We are America. This is a balance. We have a tradition of balance between public and private. This legislation accomplished that.

We do not buy into government-only solutions in America, but we do believe in rules of the road. Our bill provides a balanced solution. And CBO says we do so in a balanced way.

Soon it will come down to the Senate. My colleagues, this will be our opportunity to make history. Think of it. Our actions here will determine whether we will extend the blessings of better health care to more Americans.

Ours is a balanced plan that can pass the Senate. Our bill should win the support of Republicans and Democrats alike. Now the choice is up to Senators.

Hippocrates said that ''health is the greatest of human blessings.'' But too many Americans are being deprived of that blessing. Let us enact this balanced, commonsense plan to improve health care. Let us reform the health care system to control costs and premiums. And let us extend the blessings of health care coverage to all Americans.

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

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

The assistant legislative clerk proceeded to call the roll.

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

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

AMENDMENT NO. 2393

Mr. JOHANNS. Mr. President, I ask unanimous consent that the pending amendment be set aside and that we call up amendment No. 2393.

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

The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Nebraska [Mr. JOHANNS] proposes an amendment numbered 2393.

Mr. JOHANNS. 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: Prohibiting use of funds to fund the Association of Community Organizations for Reform Now (ACORN))

On page 203, between lines 23 and 24, insert the following:

SEC. 5____. None of the funds made available under this Act may be distributed to the Association of Community Organizations for Reform Now (ACORN) or its subsidiaries.

Mr. JOHANNS. I rise to talk about an amendment that should come as no surprise to my colleagues. The amendment is simple and straightforward. It is an amendment I have offered on a number of occasions that has been approved by this body. It prohibits any Federal funds from going to ACORN or any of its subsidiaries.

This amendment I have offered today was offered on three prior appropriations bills. Each time my amendment has gained significant bipartisan support: 83 votes the first time, 85 votes the second time, and by voice vote a third time. It is important we continue to take this action to prohibit funding in each of the remaining appropriations bills because ACORN is still eligible to receive Federal dollars from many other sources.

For any of my colleagues who might put forward the argument that ACORN typically does not get funding from the CJS appropriations bill, we can't be so sure. The fact is, ACORN has the opportunity to get money from various Federal pots that we could never have envisioned. For example, a public notice was sent out by the Department of Homeland Security on October 2 of this year announcing that ACORN was the recipient of an almost $1 million grant for funds typically reserved for fire departments. Remarkable. Who knew that ACORN specialized in firefighting? I never would have thought ACORN could win a grant designed for fire safety and prevention. But, lo and behold, that is what happened only a few days ago. This happened after the Senate took several stands against providing Federal funds to this group and after House action.

Until a full government investigation is launched and completed into ACORN, no taxpayer money should be used to fund their activities. I urge all colleagues to once again support my amendment. The identical amendment has passed twice on strong bipartisan votes with over 80 Senators voting in favor, and the third time it passed by a voice vote. Where Senators stand on this issue is now well known.

For the record, I respectfully suggest that we can agree upon this amendment by voice vote at the appropriate time.

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

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

AMENDMENT NO. 2630

Mr. VITTER. I ask unanimous consent to set aside the pending amendment and call up Vitter amendment No. 2630.

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

The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Louisiana [Mr. VITTER] proposes an amendment numbered 2630.

Mr. VITTER. 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 prohibit funds from being used in contravention of section 642(a) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996)

At the appropriate place, insert the following:

SEC. ____. None of the amounts made available in this title under the heading ''COMMUNITY ORIENTED POLICING SERVICES'' may be used in contravention of section 642(a) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1373(a)).

Mr. VITTER. Mr. President, I will read the amendment to explain what it is about:

None of the amounts made available in this title under the heading ''COMMUNITY ORIENTED POLICING SERVICES'' may be used in contravention of section 6429(a) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996.

That is the entire amendment. What does that mean? That Illegal Immigration Reform Act is about the mandate that local government has to fully cooperate with Federal immigration officials with regard to immigration enforcement. It doesn't mean that local governments become immigration agents, that they have the affirmative responsibility to do all of that work for the proper Federal authorities. It does mean that when they come across illegal immigrants and arrest them, for instance, for local law violations, they are dutybound under Federal law to properly inform Federal authorities.

The problem is, in several select jurisdictions, so-called sanctuary cities, they have made the affirmative public statement and decision that they are not going to do that. They will not comply with Federal law. They are going to ignore Federal immigration law, and they are not going to cooperate in any way with Federal immigration enforcement authorities.

We can debate whether that is good policy or bad, but we don't really need to get to that level of debate because it is present Federal law that cooperation must be extended by local police agencies and local governments. These sanctuary cities—it is beyond debate—are violating current Federal law. They are taking Federal law and saying: Too bad. We are not going to have anything to do with it. We will violate Federal law. We will not cooperate in any way with Federal immigration enforcement.

My amendment says if you violate Federal law, you will have to live by some consequences. Specifically, you will lose COPS funding for your specific jurisdiction. If you want to do that, if you want to flaunt the law, there is going to be a meaningful consequence. You will lose community policing grants.

I believe this is reasonable and necessary because there are a number of sanctuary cities that have made the affirmative decision that they are going

to flaunt and ignore and violate Federal law, have nothing to do with proper enforcement of Federal immigration law and the necessary cooperation between those Federal agencies and local law enforcement.

Nobody wants to make local law enforcement immigration enforcement. Nobody wants to place on them some affirmative duty to do the work of Federal immigration offices, which is significant. We are not trying to place that additional burden or some unfunded mandate on them. But existing Federal law does say they need to cooperate with Federal immigration enforcement. They can't have an affirmative policy that when they arrest, for a local charge, somebody who is in the country illegally, they forget about that, turn their eye to it, and never notify Federal authorities.

Tragically, this bad sanctuary city policy has had tragic results. I will mention one such instance. This involved an illegal alien, Edwin Ramos, who is currently being charged with three counts of murder in San Francisco. That is because he shot and killed Tony Bologna, 48, and his two sons—Michael, 20, and Matthew, 16—after they were driving home from a family picnic last June. Apparently, this dispute started after Tony Bologna blocked the gunman's car from completing a left turn. That was enough to merit getting out of the car and unloading a semiautomatic weapon on Bologna's vehicle, killing him and both of his sons.

Ramos is a native of El Salvador. He was in the country illegally. He is a reputed member of the gang MS–13, and had previously been found guilty of two felonies as a juvenile; not exactly misdemeanors either, a gang-related assault and the attempted robbery of a pregnant woman. Ramos had been arrested at least three times before this triple murder. He was living illegally in the United States. There was no documentation of legal status, no temporary visa status.

So why wasn't he deported when he was arrested, particularly on violent charges? Because San Francisco is a sanctuary city. They have made the affirmative determination that established a policy of breaking Federal law and not having anything to do with immigration enforcement. That led directly to a triple murder of three innocent American citizens. This is one tragic story. There are others.

The bottom line is, we have a Federal law that should prevent that. We need that law enforced and lived by, by all local jurisdictions. The Vitter amendment will put some reasonable teeth behind enforcement and some meaningful consequence when local authorities choose to completely ignore and violate Federal law.

I urge my colleagues to support this commonsense, reasonable amendment.

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. BUNNING. 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. 2653

Mr. BUNNING. Mr. President, I ask unanimous consent to set aside the pending amendment and call up my amendment No. 2653.

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

The assistant legislative clerk read as follows:

The Senator from Kentucky [Mr. BUNNING], for himself, Mr. JOHANNS, Mr. CORNYN, Mr. DEMINT, Mr. ROBERTS, Mr. WICKER, Mr. ENSIGN, and Mr. BARRASSO, proposes an amendment numbered 2653.

Mr. BUNNING. 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 require that all legislative matters be available and fully scored by CBO 72 hours before consideration by any subcommittee or committee of the Senate or on the floor of the Senate)

At the appropriate place, insert the following:

SEC. _____. (a) COMMITTEES.—Rule XXVI of the Standing Rules of the Senate is amended by inserting at the end thereof the following:

''14. (a) It shall not be in order in a subcommittee or committee to proceed to any legislative matter unless the legislative matter and a final budget scoring by the Congressional Budget Office for the legislative matter has been publically available on the Internet as provided in subparagraph (b) in searchable form 72 hours (excluding Saturdays, Sundays and holidays except when the Senate is in session on such a day) prior to proceeding.

''(b) With respect to the requirements of subparagraph (a)—

''(1) the legislative matter shall be available on the official website of the committee; and

''(2) the final score shall be available on the official website of the Congressional Budget Office.

''(c) This paragraph may be waived or suspended in the subcommittee or committee only by an affirmative vote of ⅗ of the Members of the subcommittee or committee. An affirmative vote of ⅗ of the Members of the subcommittee or committee shall be required to sustain an appeal of the ruling of the Chair on a point of order raised under this paragraph.

''(d)(1) It shall not be in order in the Senate to proceed to a legislative matter if the legislative matter was proceeded to in a subcommittee or committee in violation of this paragraph.

''(2) This subparagraph may be waived or suspended in the Senate only by an affirmative vote of ⅗ of the Members, duly chosen and sworn. An affirmative vote of ⅗ of the Members of the Senate, duly chosen and sworn, shall be required in the Senate to sustain an appeal of the ruling of the Chair on a point of order raised under this subparagraph.

''(e) In this paragraph, the term 'legislative matter' means any bill, joint resolution, concurrent resolution, conference report, or substitute amendment but does not include perfecting amendments.''.

(b) SENATE.—Rule XVII of the Standing Rules of the Senate is amended by inserting at the end thereof the following:

''6. (a) It shall not be in order in the Senate to proceed to any legislative matter unless the legislative matter and a final budget scoring by the Congressional Budget Office for the legislative matter has been publically available on the Internet as provided in subparagraph (b) in searchable form 72 hours (excluding Saturdays, Sundays and holidays except when the Senate is in session on such a day) prior to proceeding.

''(b) With respect to the requirements of subparagraph (a)—

''(1) the legislative matter shall be available on the official website of the committee with jurisdiction over the subject matter of the legislative matter; and

''(2) the final score shall be available on the official website of the Congressional Budget Office.

''(c) This paragraph may be waived or suspended in the Senate only by an affirmative vote of ⅗ of the Members, duly chosen and sworn. An affirmative vote of ⅗ of the Members of the Senate, duly chosen and sworn, shall be required in the Senate to sustain an appeal of the ruling of the Chair on a point of order raised under this paragraph.

''(d) In this paragraph, the term 'legislative matter' means any bill, joint resolution, concurrent resolution, conference report, or substitute amendment but does not include perfecting amendments.''.

(c) PROTECTION OF CLASSIFIED INFORMATION.—Nothing in this section or any amendment made by it shall be interpreted to require or permit the declassification or posting on the Internet of classified information in the custody of the Senate. Such classified information shall be made available to Members in a timely manner as appropriate under existing laws and rules.

Mr. BUNNING. Mr. President, I will speak more on this amendment at a later time.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. BENNETT. Mr. President, NASA is at a very difficult crossroads right now in determining the future of human space flight, and I would like to talk about that.

NASA is in the process of deciding where to put its full support and funds—whether it should be behind the current Constellation Program or whether it should change course and go in another direction.

The Augustine Commission has announced some recommendations and described them both but leaves it up to NASA to make the decision as to where it will go. I am very concerned NASA will agree with those recommendations that will relate to access to the International Space Station and will affect low-Earth orbit in these difficult budgetary times.

We have just finished the space station. So the time comes now to decide how to use it to its greatest advantage. The space station was built with the shuttle program, and it has always

been understood that the space shuttle will be retired next year. After that happens, we will be relying upon Russia to get our astronauts into space.

The original plan was that once the shuttle was retired, the next vehicle to get us into space would be the Ares I. That is the pivotal point where the decision has to be made: Shall we go ahead with Ares I?

I am very concerned that NASA may want to divert precious resources from the Ares I program in the hope that the commercial space industry can fill the void. Well, it is disconcerting to me because we have a successful track record of the Ares program but a less than desirable record of the commercial space industry. We have invested over 4 years and $6 billion in the Ares I and Orion programs, and it is on track.

Just last month, we had a successful ground test of the new Ares I rocket in Utah. Later this month, NASA will conduct the first flight test—on track to deliver a safe, reliable rocket.

Changes in NASA's plan should only be made if alternatives are available to provide significant advantages in cost, schedule, performance, and safety. The program that is working should not be dropped unless those advantages are very clear, and as of now there are no credible alternatives. To me, it makes sense to stay committed to a program we have already invested billions of dollars in and which has met its significant benchmarks.

Right now, the Ares I is the only credible solution we have for getting crew and cargo services into space once the shuttle is retired. The Ares I system came out of the Gehman report that followed the Columbia accident, recommending that the shuttle be replaced with a launch system that would maximize crew safety. Aries will achieve those standards.

The system builds on an existing manufacturing infrastructure that builds on our strengths. We already have the industrial base to go ahead with Ares. We do not have to invent anything new. We paid for the research. Why would we forego years of successful research and billions of dollars in the promise of an untested method of getting into space? Why would we take the gamble? If it turns out the hope that the commercial people could fill the void is wrong, we will have lost the industrial base that preserves our existing alternative to the commercial system.

What will NASA do then, if that which they might place their hopes in turns out to fail, and they have dismantled the program we now know works? How much money would we save if we were confronted with that situation a few years down the road? We risk losing the industrial base that is paramount to American competitiveness.

I know I will be accused of being parochial because a good portion of that industrial base is in my home State of Utah, but that does not lessen its significance or its competence.

The Ares program takes advantage of facilities and an already-trained workforce that has made the most reliable rockets in the world, having flown and tested over 200 of these solid rocket motors. We are already seeing reductions in our manufacturing base in this circumstance in Utah. Just this last week, 550 more people who would be critical to NASA in maintaining that base have lost their jobs, and if we abandon the Ares program, we could lose thousands more. Yes, I am interested because it is important to my State, but I am equally, if not more, interested because I think it is important to the Nation not to take this kind of gamble.

I seriously urge the administration to take a look at the bird they have in their hand, the bird that has flown over 200 times successfully, and not be too excited about the bird that may lie waiting for them somewhere in the bush.

I yield the floor.

The PRESIDING OFFICER. The Senator from Maryland.

Ms. MIKULSKI. Mr. President, I wish to thank the Senator from Utah for his remarks. We have essentially three space Senators on the floor—the distinguished Senator from Florida, our Presiding Officer, who has actually been an astronaut, and you can ask him if he wants to go into space with the lowest bidder. I think there are certain things that one can't pick who the lowest bidder will be.

I think there is much to be debated. We have the Augustine report, on which there has been a hearing, and our bill, the CJS bill, we fully fund the reliable transportation system that would be developed by our government. If the President were to change that, that would be a new direction and a new appropriation on which there would be tremendous debate and discussion.

So I wish to assure the Senator from Utah and the Presiding Officer, who often speaks for the brave men and women who go into space, that what the CJS bill does is fully fund, No. 1, what we need now to make sure our space shuttle is safe and fit for duty as it comes to the end in this decade of its usable service. Our No. 1 priority will always be the safety of the astronauts, not the bottom line.

The second thing is that in our appropriations we disagreed with the House. We actually put money in the Federal checkbook to develop the new programs, the new technologies for the next generation of reliable space transportation vehicles, and it follows very much the framework that the Senator from Utah has outlined.

So we look forward, once again, to working on our space program in a bipartisan way. One of the joys of chairing this committee is that when it comes to our National Space and Aeronautics Agency, we work on a bipartisan basis.

The Senator from Utah might be interested to know, when I first came to the Senate and went on the then VA-HUD Committee that funded NASA, the ranking member was Jake Garn, your colleague. As we all recall with fondness, Senator Garn was himself also a Senator astronaut. I must say it was Senator Garn who—I was a Goddard gal; Goddard is in Maryland. But space is about space, not about an individual State. Through his excellent workmanship, his patience, his guidance, I came to know the space program. Within 2 years, I happened to, with the retirement of Senator Proxmire, take over the committee. I could not have been an effective Senator had it not been for the wise guidance I received from Jake Garn. We did it because we worked together.

So this Senator has a real fondness for the Senator from Utah speaking about the space program. But I only want to reiterate how, when we work together, it is bipartisan, it is in the interests of our country, it is about the stars and the galaxies and the planets, but it is also about developing that new technology that creates the new jobs.

I am here sitting in a wheelchair wearing a space boot. I look like I am Sally Ride's advance woman. But it is a special device. Many materials were developed through our space program. It is an innovative technology, where you go beyond the outdated casts that neither expanded nor contracted during the day that this one can do. So this technology externally protects me from, quite frankly, anybody treading on me, if you can believe it, but it protects me. Internally, it has the genius devices that can deal with either the contraction or the expansion of your leg in the course of a day. All of that came out of our space program. So it is not only about Senator BARBARA MIKULSKI and her space boot but all over we have been able to develop new medical devices because of our space program: digital mammography, saving the lives of women; a space boot that makes sure that after you have had the services of a talented and gifted surgeon, your leg is also protected. So you better believe I am going to protect the space program as much as the space program helped protect my leg today. So I wanted to let the Senator know that.

We are going to be voting in about 5 minutes on a Vitter amendment. I know there is another one that the Senator from Utah has cosponsored, which is going to be tomorrow. Right now, we are going to vote in a few minutes on sanctuary cities. I am going to yield the floor to the Senator from New Jersey, who is very knowledgeable on this topic.

I yield to Senator MENENDEZ.

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

Mr. MENENDEZ. Mr. President, I thank the distinguished Senator from Maryland for yielding.

AMENDMENT NO. 2630

Mr. President, I ask unanimous consent that the time until 5:55 p.m. be for

debate prior to a vote in relation to the Vitter amendment No. 2630, with the time equally divided and controlled in the usual form, and that at 5:55 p.m. the Senate proceed to vote in relation to the Vitter amendment No. 2630, with no amendment in order to the amendment prior to the vote.

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

The Senator from New Jersey is recognized.

Mr. MENENDEZ. Mr. President, I rise to speak against the Vitter amendment. This amendment is downright dangerous. It is dangerous to threaten policing funds to cities such as New York, San Francisco, Los Angeles, Chicago, Washington, DC, and smaller towns across America that have chosen to encourage their community members to report crime.

The Senate tabled this same amendment last year. The reason this body was wise enough to defeat it last year was because we understood that some of the toughest law enforcement officials in our country, from sheriffs to prosecutors, and a whole host of law enforcement officials in between, understand the cooperation of the communities essential in fighting crime. Senator VITTER's amendment would deny moneys to at least 50 cities in a whole host of States represented by Members on both sides of the aisle.

I want to solve the crime. I want to get the perpetrator. I want to convict the person and put them in jail. I don't want the opportunity to go to waste because of some political statement having nothing to do with the core issue of security in our communities. Do we want witnesses to be able to come forward and provide essential, crucial eye witness testimony about the crime or do we want them to hide in the darkness and not talk to police because they are afraid of their immigration status? I want to make sure a witness comes forth and testifies against a perpetrator and has no fear to do so. That is why local police oppose this amendment.

The unwillingness of that person to come forward because of a fear may lead to other crimes being committed by that same individual in the same community; perhaps to a child who might be molested, to a person who might be assaulted, to a family who might get robbed.

So instead of catching the perpetrator, we prefer to deny moneys to communities that have a view that community policing is in their best interests and that means bringing the community in as part of that effort. These cities have made decisions across the landscape of this country—urban, suburban, and rural—to say we care more about prosecuting the crime and finding the criminal and having the witness come forward to tell us all about that crime so we can stop that person from continuing to perpetrate crimes against other people in our communities than we care about the person's status. These cities have decided they do not want a chilling effect to prevent people from reporting crime.

That is what tough law enforcement will tell you. Sheriffs will tell you, prosecutors will tell you, police chiefs will tell you, and they will tell you they want the community to participate in fighting crime. That is why we should vote to table the Vitter amendment.

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

Under the previous order, the question is on agreeing to amendment No. 2630.

Mr. MENENDEZ. Mr. President, I move to table, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There appears to be.

The question is on agreeing to the motion.

The clerk will call the roll.

The bill clerk called the roll.

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

Mr. DURBIN. I announce that the Senator from West Virginia (Mr. BYRD) is necessarily absent.

The result was announced—yeas 61, nays 38, as follows:

[Rollcall Vote No. 316 Leg.]

YEAS—61

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

NAYS—38

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

NOT VOTING—1

Byrd

The motion was agreed to.

Mr. MENENDEZ. Mr. President, I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Michigan.

AMENDMENT NO. 2627

Mr. LEVIN. Mr. President, I ask unanimous consent that the pending amendment be laid aside so that I may call up, on behalf of myself and Senator COBURN, amendment No. 2627.

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

The legislative clerk read as follows:

The Senator from Michigan [Mr. LEVIN], for himself and Mr. COBURN, proposes an amendment numbered 2627.

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

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

The amendment is as follows:

(Purpose: To ensure adequate resources for resolving thousands of offshore tax cases involving hidden accounts at offshore financial institutions)

At the appropriate place, insert the following:

SEC. _____. (a) IN GENERAL.—The Attorney General shall direct sufficient funds to the Tax Division, including for hiring additional personnel, to ensure that the thousands of civil and criminal cases pending or referred during the 2010 fiscal year to the Tax Division or to an Office of a United States Attorney related to a United States person who owes taxes, interest, or penalties in connection with a foreign financial account at an offshore financial institution or who assisted in the establishment or administration of such an account are—

(1) acted on in a prompt fashion by a Federal prosecutor or attorney;

(2) resolved within a reasonable time period; and

(3) not allowed to accumulate into a backlog of inactive cases due to insufficient resources.

(b) REPROGRAMMING.—If necessary to carry out this section, the Attorney General shall submit a request during the fiscal year 2010 to reprogram funds necessary for the processing of such civil and criminal cases.

Mr. LEVIN. Mr. President, I yield the floor. 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. DURBIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

AMENDMENT NO. 2647, AS MODIFIED

Mr. DURBIN. Mr. President, I ask unanimous consent that the pending amendment be set aside and I be allowed to offer an amendment to the pending legislation.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. DURBIN. Mr. President, I send an amendment to the desk and ask the clerk report the amendment.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Illinois [Mr. DURBIN] proposes an amendment numbered 2647, as modified.

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

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

The amendment, as modified, is as follows:

(Purpose: To require the Comptroller General to review and audit Federal funds received by ACORN)

On page 203, between lines 23 and 24, insert the following:

SEC. 533. REVIEW AND AUDIT OF ACORN FEDERAL FUNDING.

(a) REVIEW AND AUDIT.—The Comptroller General of the United States shall conduct a review and audit of Federal funds received by the Association of Community Organizations for Reform Now (referred to in this section as ''ACORN'') or any subsidiary or affiliate of ACORN to determine—

(1) whether any Federal funds were misused and, if so, the total amount of Federal funds involved and how such funds were misused;

(2) what steps, if any, have been taken to recover any Federal funds that were misused;

(3) what steps should be taken to prevent the misuse of any Federal funds; and

(4) whether all necessary steps have been taken to prevent the misuse of any Federal funds.

(b) REPORT.—Not later than 180 days after the date of enactment of this Act, the Comptroller General shall submit to Congress a report on the results of the audit required under subsection (a), along with recommendations for Federal agency reforms.

Mr. DURBIN. Mr. President, this amendment relates to an organization that is controversial—an organization known as ACORN. We have seen videos in which the employees of ACORN were alleged to have said despicable things, and in fact, on those tapes, did say despicable things. The employees in question have been fired by their organization, and ACORN is being investigated by several State and Federal agencies because of their misconduct and potential misuse of government funds.

I am also troubled by the discoveries of voter registration fraud, and I am glad that ACORN reported those incidents to authorities. The employees involved have also been fired by ACORN. The actions by those employees were not tolerated, and should not be tolerated. They were inexcusable. Anyone who has broken the law should be held accountable and, if necessary, prosecuted.

ACORN deserves much of the criticism it has received for allowing this type of behavior to happen. However, although ACORN was clearly wrong, we are seeing in Congress an effort to punish ACORN that goes beyond any experience I can recall in the time I have been on Capitol Hill. We have put ourselves—with some of the pending amendments—in the position of prosecutor, judge, and jury.

Mr. President, I went to one of these old-fashioned law schools. We believed that first you have the trial, then you have the hanging. But, unfortunately, when it comes to this organization, there has been a summary execution order issued before the trial. I think that is wrong. In America, you have a trial before a hanging, no matter how guilty the party may appear. And you don't necessarily penalize an entire organization because of the sins or crimes of a limited number of employees. First, we should find out the facts.

I know ACORN is unpopular right now, and much of that scorn they deserve, but ACORN has a number of affiliated organizations. Incidentally, they are not in Illinois. They do not operate in my State. It is my understanding they have been gone for several years. But they have a number of affiliated organizations that would be affected by the approach which has been suggested, by an amendment which is pending on this legislation.

To my knowledge, we have not yet seen any review or analysis of whether the misconduct was the work of a few employees or whether the entire organization and all of its affiliates should be held responsible. There may well be entities affiliated with ACORN that are not at fault and that provide essential services to low-income communities.

Let's get to the bottom line. Why has this organization been treated differently than others? Why has it been the focus of attention? This organization focuses on poor people in America. They have registered over 1 million voters, and I am sure most people believe those voters are going to vote in a certain political way. Folks on the other side of the political equation don't care for that—1 million voters voting against them. So they have been inspiring this effort against ACORN.

Also, over the years, ACORN has been involved in many different States to improve minimum wages for poor employees—poor people who are trying to get enough money to keep their families together. That doesn't sit well with a number of businesses, and I am sure they have increased the anger of a lot of people over their conduct. They have also been involved in counseling people who are about to lose their homes to foreclosures, how to avoid predatory lenders—banks that are unscrupulous. I am sure those banks don't care for ACORN either.

So they have made their share of enemies working with and standing up for poor people across America. They have certainly made their share of mistakes. We saw that in videotapes, and we have seen it in other disclosures. But Congress should not, without careful consideration, permanently deny assistance to the thousands of people and families who have been receiving ACORN's legitimate legal help to avoid predatory lending and foreclosure because of the misconduct of a handful of employees who have been terminated by ACORN.

That is why I am proposing that we get to the bottom of this by having a thorough investigation; that Congress direct the Government Accountability Office to review and report back to us within 180 days on whether any Federal funds have been misused by ACORN or its affiliates; and, if so, in what amounts and in what ways.

This doesn't stop this administration from deciding not to use the services of this organization when it comes to taking the census. The Obama administration announced they were not going to use this organization. That is within their right to do. I am not questioning that decision. But the efforts by Members on the Senate floor have gone far beyond any agency's single decision. They have tried to blackball this organization and say it shouldn't do any work of any kind in any capacity before we have thoroughly investigated the charges that have been raised against it.

The report I have called for should also identify the steps necessary to correct any deficiencies, along with an assessment of whether all necessary steps have been taken to prevent any future misuse of Federal funds. The GAO will be able to conduct a government-wide review—not just one agency—looking at any funds ACORN or its affiliates have received from any Federal agency. It will be a complete and comprehensive review and investigation.

I am not excusing ACORN or its employees for any misconduct. To the contrary, I think they should be held accountable, particularly for the misuse of any Federal funds, if it occurred. But if we get into the business of passing bills and resolutions against unpopular people or organizations, this is a road we ought to carefully travel. There are a lot of companies and organizations out there that have received government funding and that have had employees commit fraud or other despicable acts.

I found it curious, the level of anger and the level of interest when it comes to ACORN. Yet when it turned out that Kellogg Brown & Root—a subsidiary of Halliburton, which was a sole-source contractor during our war in Iraq—was found to have been involved in conduct that led to shoddy workmanship and which cost the life of an American soldier by electrocution and endangered many others; when this same organization was involved in supplying water supplies and sources to our troops that were dangerous; when in fact there was evidence of sexual harassment, I didn't see the same level of anger coming from the media or from my colleagues on the floor of the Senate. No. But when it comes to ACORN, registering poor people to vote, then we have to take action.

We need an approach that can stand the test of time and the test of justice. My approach is based on some pretty fundamental American principles, calling for this GAO study and investigation. First, individuals should be held accountable for their actions. Second, organizations—and I might add corporations too—should be held accountable for the policies they set. Third, organizations and corporations should not be permanently cut off based on the actions of individual employees who violated the organizational policy and were fired.

There should be a process for addressing wrongs and moving forward with

policies that will prevent future misdeeds. That isn't a new idea, it is a very old idea. It is the American system of justice. So let's let the Government Accountability Office get to the bottom of this. Let's make sure we have done our due diligence; have a thorough, complete, honest and accurate, fair investigation before we pass laws that turn us into judges and juries.

The report I am calling for will provide us with the guidance we need. Let's follow the facts. Let's not follow our passions. It is a clear call for accountability from the Government Accountability Office when it comes to this organization of ACORN. I urge my colleagues to support it.

Mr. President, I yield the floor.

Mr. INOUYE. Mr. President, I submit pursuant to Senate rules a report, and 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:

DISCLOSURE OF CONGRESSIONALLY DIRECTED SPENDING ITEMS

I certify that the information required by rule XLIV of the Standing Rules of the Senate related to congressionally directed spending items has been identified in the committee report which accompanies H.R. 2847 and that the required information has been available on a publicly accessible congressional website at least 48 hours before a vote on the pending bill.

Mr. BEGICH. Mr. President, I wish to speak on an amendment I have filed with my colleague from Alaska, Senator MURKOWSKI.

This amendment will repeal a provision contained in the Commerce, Justice, and Science Appropriations bill each year since 2004, which has prevented tribes in certain areas of Alaska—and only in Alaska—from receiving any Federal funds to support their programs. This rider was added several years ago as part of a dispute over tribal sovereignty, but I join with Senator MURKOWSKI to say to our colleagues that whatever the merits of the past dispute, this provision is having real and adverse impacts on the administration of justice in Alaska.

Perhaps no place is seeing the negative impacts of this policy quite as acutely as Sitka, AK. This provision is currently harming the efforts of the Sitka Tribe of Alaska to work with the judicial system of the State of Alaska, and everyone in that part of the State—Alaska Native or not—is paying the price.

The Sitka Tribe has been working with the State of Alaska's court system to create a collaborative effort to battle substance abuse in their community. Tribal leaders and local court officials created the Tribal Youth Diversion Effort, TYDE, which currently takes on the nonviolent drug possession cases of both native and non-native minors, rather than forcing local youth to go through the State court system. This program has reduced the caseload of the both the State courts and city attorney. Perhaps even more importantly, the TYDE program provides the youth with a comprehensive program to deal with substance abuse. It is a successful program, and both tribal leaders and local criminal justice officials would like the opportunity for the Sitka Tribe to receive Federal funds to support and expand their important work.

Currently, because of this 2004 rider, the Sitka Tribe cannot receive any Department of Justice funding for their programs. I believe we should do more to support local programs such as the TYDE in their efforts to prevent alcohol and drug abuse. This is a problem for American youth wherever they live, but it is an especially devastating circumstance for Alaska Natives. Tribal governments in the lower 48 do not face similar restrictions, and along with my colleague Senator MURKOWSKI, I respectfully request that my colleagues support this important amendment.

MORNING BUSINESS

Mr. BENNET. Mr. President, I ask unanimous consent the Senate proceed to a period of morning business, with Senators permitted to speak for up to 10 minutes each.

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

REMEMBERING SENATOR TED M. KENNEDY

Mr. CASEY. Mr. President, today we remember our colleague and our friend Senator Ted Kennedy. There are few people alive today whose lives have not been impacted by the work of Senator Kennedy.

A brilliant legislator, Senator Kennedy championed bipartisanship and compromise to leave behind an incomparable record. In his 45 plus years in the U.S. Senate, he authored over 2,500 bills and several hundred became law. Today, people with disabilities cannot be discriminated against in the workplace because of Senator Kennedy. Women must be paid the same as men for the same work because of Senator Kennedy. And low-income children have access to health care because of Senator Kennedy.

Like his brothers before him, Senator Kennedy challenged young people across America and around the world to devote their lives to something more than just themselves and lead by example. Whether it was championing civil rights legislation in the 1960s, condemning apartheid in South Africa before it became politically popular to do so, promoting the need for early childhood education or advocating for health care, Senator Kennedy led the charge.

Senator Hubert Humphrey once said that the moral test of government is how it treats those in the dawn of life, our children, those in the twilight of life, our older citizens, and those in the shadows of life, people with disabilities, the homeless, the dispossessed. Senator Kennedy took up the causes of these Americans as his own. The poor, the powerless and the forgotten lost an ever-faithful protector and their tireless advocate.

On a personal note, I recall in early 2007, during my first weeks in the Senate, Senator Kennedy gave me and other freshman Senators floor time to speak about increasing the minimum wage. In early 2009, when I was named to the HELP Committee, Senator Kennedy called to welcome me to the committee and invited me to hold field hearings in Pennsylvania on issues like health care and education. I will never forget his courtesy and the respect he showed to fellow Senators.

In closing, I am reminded of the words Senator Kennedy spoke about Mike Mansfield when the majority leader retired:

> No one in this body personifies more nearly than Mike Mansfield the ideal of the Senate. Wisdom, integrity, compassion, fairness, humanity—these virtues are his daily life. He inspired all of us, Democrat and Republican, by his unequalled example. He could stretch this institution beyond its ordinary ability, as easily as he could shame it for failing to meet its responsibility.

The same can be said about Senator Kennedy. We will miss him in this Chamber, but we will never forget the lessons he taught us or the legacy he leaves behind.

HONORING OUR ARMED FORCES

SPECIALIST PAUL E. ANDERSEN

Mr. BAYH. Mr. President, I rise today with a heavy heart to honor the life of SPC Paul E. Andersen from South Bend, IN. Paul was 49 years old when he lost his life on October 1, 2009, due to injuries sustained from indirect fire in Baghdad, Iraq. He was a member of the 855th Quartermaster Company, U.S. Army Reserve, South Bend.

Today, I join Paul's family and friends in mourning his death. He will forever be remembered as a loving husband, father, and friend to many. Paul is survived by his wife Linda, children, grandchildren, and extended family.

Paul joined the Army in 1984. In November of 2008, he began his second tour in Iraq. Paul was a Michiana native who grew up in Elkhart and graduated from Buchanan High School in 1979. For the past 8 years he was living and working in South Bend. He loved his wife Linda deeply and returned home on leave this past August to celebrate their fifth wedding anniversary. Family members say he lived to be in the service and loved military life. Though he was scheduled to return from Iraq in early November, Paul had expressed a strong desire to stay in Iraq for another year. Just prior to his death, he had reenlisted for the next 6 years. His family takes comfort in the idea that he died doing what he loved most.

While we struggle to express our sorrow over this loss, we can take pride in

the example Paul set as a soldier, father, and grandfather. Today and always, he will be remembered by family, friends and fellow Hoosiers as a true American hero, and we cherish the legacy of his service and his life.

It is my sad duty to enter the name of Paul E. Andersen in the official RECORD of the U.S. Senate for his service to this country and for his profound commitment to freedom, democracy, and peace. I pray that Paul's family can find comfort in the words of the prophet Isaiah, who said, ''He will swallow up death in victory; and the Lord God will wipe away tears from off all faces.''

May God grant strength and peace to those who mourn, and may God be with all of you, as I know He is with Paul.

ADVANCED TACTICAL LASER

Mr. BINGAMAN. Mr. President, under paragraph 9 of rule XLIV of the Standing Rules of the Senate, I am here by submitting a description of Senate amendment No. 2605 that was accepted by unanimous consent to H.R. 3326 as follows:

Item: Additional User Evaluation and System Study for Advanced Tactical Laser (ATL)

Request Amount: $5.0M.

Requestor: Boeing Corporation

Address: Boeing—SVS, 4411 The 25 Way NE #350, Albuquerque, NM 87109–5858

Suggested Location of Performance (major portion of the work): Albuquerque, NM.

Senate amendment No. 2605 proposes to allocate up to $5 million consistent with the Air Force Scientific Advisory Board report entitled ''The Airborne Tactical Laser (ATL) Feasibility for Gunship Operations'' to conduct additional enhanced user evaluation of the ATL and enter into an agreement with a federally funded research and development center to conduct a system analysis of integrating solid state laser systems onto C–130, B–1, and F–35 platforms for the purpose of close air support. Such system study shall estimate per unit costs of such laser systems as well costs to operate and maintain each platform with the laser system.

Why Spending is in Interest to the Taxpayer: The Air Force Scientific Advisory Board report entitled ''The Airborne Tactical Laser (ATL) Feasibility for Gunship Operations'' made a number of recommendations regarding the advanced tactical laser. In addition to phasing out the ATL chemical laser system and transitioning to an electric laser system, the board recommended that additional enhanced user evaluations take place of the integrated laser-gunship system so that the most data possible can be collected of the funds spent to date on operational aspects of the tactical laser system regardless of laser characteristics. In addition, the board questioned the utility of placing tactical laser systems on high-speed platforms such as the F–35 and B–1, which were not designed for low speed, long-loiter close air support missions and recommended a system study of the available platforms to understand the cost per unit of integrating the laser onto each platform as well as long-term operations and maintenance costs with each integrated system. Senate amendment No. 2605 carries out the recommendations of the board to get the best benefit of the taxpayer's dollar spent to date and into the future on tactical laser systems under development by the Air Force.

I ask unanimous consent to have printed in the RECORD a letter dated October 7, 2009.

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

U.S. SENATE,
Washington, DC, October 7, 2009.

Hon. DANIEL INOUYE,
Chairman, Committee on Appropriations, Subcommittee on Defense, Senate Appropriations Committee, Senate Dirksen Office Building, Washington, DC.

Hon. THAD COCHRAN,
Vice Chairman, Committee on Appropriations, Subcommittee on Defense, Senate Appropriations Committee, Senate Dirksen Office Building, Washington, DC.

DEAR CHAIRMAN INOUYE AND VICE-CHAIRMAN COCHRAN: On October 6th, the Senate adopted by unanimous consent Senate Amendment 2605, which proposes to allocate up to $5 million Consistent with the Air Force Scientific Advisory Board report entitled ''The Airborne Tactical Laser (ATL) Feasibility for Gunship Operations'' to conduct additional Enhanced User Evaluation of the ATL and enter into an agreement with a Federally Funded Research and Development Center to conduct a system analysis of integrating solid state laser systems onto C–130, B–1 and F–35 platforms for the purpose of close air support.

I certify that neither I nor my immediate family has a pecuniary interest in this congressionally directed spending item, consistent with the requirements of paragraph 9 of Rule XLIV of the Standing Rules of the Senate. I further certify that I have submitted a description of the amendment in the Congressional Record and on my official website, along with the accompanying justification. If you have any questions, contact Dr. Jonathan S. Epstein on my staff.

Sincerely,

JEFF BINGAMAN,
U.S. Senator.

REMEMBERING BELLE ACKERMAN LIPMAN

Mr. LEVIN. Mr. President, I wish to remember the life of an extraordinary woman. Belle Ackerman Lipman passed away at her home in Memphis, TN, on August 17, 2009, in the 100th year of her remarkable life. A beloved wife, mother, grandmother, great-grandmother, and friend, Mrs. Lipman is a model for all of us who hope to live life fully and for all the years granted us.

A daughter of Romanian immigrants, Belle Ackerman was born in 1910 in Philadelphia, where her parents owned a general store. Just five blocks away from the store lived young Mark Lipman, who would become the love of Belle's life. The businessman and his young wife moved not long after their marriage to Little Rock, AR, where Mark saw new business opportunities, and then in 1958 to Memphis, TN. There, Belle Lipman became a pillar of the community. Her work in civic affairs was extensive. She was president of the Little Rock chapter of Hassadah, the worldwide Jewish women's organization, among a host of endeavors in charity, service and the arts.

But it is not those remarkable accomplishments alone that made Belle Lipman such a special woman. As years passed, her zest for life, for new experience, and to learn of new cultures grew apace. A lifelong interest in travel made her one of the first American citizens to travel to China after diplomatic relations with that nation were reestablished in 1979. Her travels took her to a hot-air balloon over the plains of Kenya, the rivers of the Amazon, and the ancient cities of Peru. She rode the Orient Express at the age of 87. At 92, she crossed the Arctic Circle. At 95, she visited the mountains of Tibet and a host of other places. At her 95th birthday party, she celebrated the only way she knew how, with verve by dancing the Charleston.

Belle Lipman was a model—a model of how to live life to the fullest and how a thirst for new experiences can fill a lifetime. My wife Barbara and I send our condolences to her beloved children, her son Ira and her daughter Carol, her grandchildren, and her great-grandchildren. We do so with the sure knowledge that the joy of Belle Lipman's life will over time ease the pain of her passing, leaving the warmest of memories to sustain family and friends.

ADDITIONAL STATEMENTS

TRIBUTE TO LOUISIANA WWII VETERANS

● Ms. LANDRIEU. Mr. President, I am proud to honor a group of 90 World War II veterans from all over Louisiana who traveled to Washington, DC, on September 26 to visit the various memorials and monuments that recognize the sacrifices of our Nation's invaluable service members.

Louisiana HonorAir, a group based in Lafayette, LA, sponsored this trip to the Nation's Capital. The organization is honoring surviving World War II Louisiana veterans by giving them an opportunity to see the memorials dedicated to their service. The veterans visited the World War II, Korea, Vietnam, and Iwo Jima Memorials. They also traveled to Arlington National Cemetery.

This was the first of three flights Louisiana HonorAir made to Washington, DC, this fall. It is the 18th flight to depart from Louisiana, which has sent more HonorAir flights than any other State to the Nation's Capital.

World War II was one of America's greatest triumphs but was also a conflict rife with individual sacrifice and tragedy. More than 60 million people worldwide were killed, including 40 million civilians, and more than 400,000 American service members were slain during the long war. The ultimate victory over enemies in the Pacific and in Europe is a testament to the valor of American soldiers, sailors, airmen, and marines. The years 1941 to 1945 also witnessed an unprecedented mobilization of domestic industry, which supplied our military on two distant fronts.

In Louisiana, there remain today about 30,000 living WWII veterans, and each one has a heroic tale of achieving the noble victory of freedom over tyranny. This group had 25 veterans who served in the U.S. Army, 19 in the Army Air Corps, 29 in the Navy, 11 in the Marine Corps, 2 in the Merchant Marines, 2 in the Coast Guard, and 2 were Army nurses.

Our heroes, many of them from South Louisiana, trekked the world for their country. They fought in Germany, Holland, France, Italy, Africa, Guam, Bougainville, Guadalcanal, Iwo Jima, Okinawa, the Philippines, New Guinea, Japan and Saipan. Their journeys included the invasions of North Africa, Sicily, and Normandy.

One of our Army Air Corps veterans was declared missing in action for 58 days in Yugoslavia after bailing out of his aircraft. Another Army veteran fought bravely in the Battle of the Bulge, while an Army Air Corps veteran made the Bataan Death March and spent 5 years in prison camps before being liberated on August 17, 1946.

One Navy veteran earned a Gold star, Bronze star, and Hazardous Award for his service in the Pacific. An Army Air Corps veteran fought in Europe, Africa, and the Middle East where he received an Air Medal, three oak leaf clusters, and a Distinguished Unit Badge for his outstanding service.

A Navy veteran earned seven campaign stars and was in Tokyo Bay the morning of the Japanese surrender. Another veteran served as part of the 101st Airborne, fighting in Holland, Bastogne, Alsace, Ruhr, and Berchesgarten.

I am also proud to acknowledge that of the 90 veterans who visited Washington this past weekend, 5 were women who served our country with honor and distinction during World War II. Three brothers also made the trip together.

I ask the Senate to join me in honoring these 90 veterans, all Louisiana heroes, who visited Washington, and Louisiana HonorAir for making these trips a reality.●

RECOGNIZING REED & REED, INC.

● Ms. SNOWE. Mr. President, as our Nation increases its efforts to be more environmentally friendly, individuals, families, and businesses, both large and small, wisely continue to invest in green energy innovation. As we enter an exciting era of remarkable technological advances that will change the course of America forever, we are creating a more energy efficient and competitive Nation. I wish to recognize a small contracting firm from my home State of Maine that has become a leader in the promising field of wind power technology.

Located in the small midcoast town of Woolwich, Reed & Reed, Inc., is a general contracting company that focuses on a wide array of projects ranging from bridge construction to wind power services. Founded in 1928, the company was a partnership of Captain Josiah W. Reed and his son, Carlton Day Reed, with a mere $2,000 capital investment. Presently run by two Colby College graduates, president and CEO Jackson A. Parker and treasurer Thomas C. Reed, Reed & Reed is well positioned to remain the premier wind power services contractor in New England for decades to come.

Throughout its storied history, Reed & Reed has been at the center of numerous critical projects across the region. From its early focus on constructing bridges, to more recent ventures including commercial buildings, marine terminals, and industrial facilities, the company has built a strong reputation based on the expansive breadth of its work. Among other efforts, Reed & Reed has helped construct facilities at the Brunswick Naval Air Station and Portland's International Ferry Terminal and has been involved in several transportation construction projects, including repairs to bridges on Maine's interstate highways and the Maine Turnpike Widening Project earlier this decade. One of the more impressive projects Reed & Reed has been associated with is the historic Penobscot Narrows Bridge, only the second cable-stayed bridge in all of New England and a massive accomplishment in its own right. Additionally, the company earned numerous recognitions and awards for this monumental task, including an Outstanding Civil Engineering Achievement Award from the American Society of Civil Engineers.

Reed & Reed has most recently taken the leading role in several wind power service projects in various spots across Maine. The firm is presently at work on the Kibby Mountain Wind Power Project, slated for completion 1 year from now. And Reed & Reed was at the heart of what is now Maine's largest wind power producer, the Stetson Mountain Project, which was completed last year in Danforth.

Earlier this year, the Maine Development Foundation selected Reed & Reed as one of its Champions of Economic Development because of the company's broad commitment to economic growth in Maine, high professional standards, and innovativeness. Among countless other awards, Reed & Reed has also received seven Build Maine Awards from the Associated General Contractors of Maine, the most recent in recognition of the firm's extraordinary efforts on the Stetson wind project. Awarded based on a firm's innovation, environmental sensitivity, safety record, and general excellence, the Build Maine Award is a truly fitting tribute to Reed & Reed's superior quality of work.

Of note, leaders from Reed & Reed recently visited Spain and Germany with Maine Governor John Baldacci and other wind industry representatives as part of a weeklong trade mission. The trip provided a prime opportunity to showcase Maine's emergence as a leader in wind power, and it was a tremendous honor for such a deserving company to be invited to participate.

A name synonymous with ingenuity, Reed & Reed is leading Maine and New England into a new frontier of innovation and environmental responsibility. I commend Messrs. Parker and Reed, and everyone at Reed & Reed, for eight decades of unparalleled work in a variety of fields and wish them continued success in their multiple endeavors.●

RECOGNIZING LOUISVILLE, COLORADO

● Mr. UDALL of Colorado. Mr. President, today I congratulate the city of Louisville, CO, for being named recently as the top place to live in the Nation by Money Magazine. I know that Colorado is home to many amazing towns, cities and communities. It would be nearly impossible to choose which among them is the top place to live, but I am proud that Louisville received this prestigious honor.

Every 2 years, Money Magazine releases a ranking of cities under 50,000 residents. In compiling these rankings, the editors consider factors such as economic opportunity, schools, affordability of homes, crime rates, and entertainment options for families. This year marks the third consecutive time Louisville has made the list, ranking fifth in 2005 and third in 2007.

In addition to the usual factors, this year's survey had an added component. People from around the nation said that the availability of great jobs was the most important factor to them when deciding where to live. This does not come as a surprise to any of us, but makes Louisville's ranking all that much more impressive for Colorado. While Louisville has certainly seen the effects of the economic downturn, it has been able to continue to support and attract cutting-edge businesses. ConocoPhillips is an example of just one business that has recently decided to put down roots in Louisville, where it plans to build a renewable energy and new technologies research facility. The businesses located in Louisville's Tech Center continue be at the forefront of Colorado's high-tech development, and those located on Louisville's historic Main Street support jobs while continuing traditions started generations ago.

But more than its ability to attract businesses and jobs, the heart of Louisville and what makes it the top place to live is its solid community and commitment to the outdoors. Louisville supports a vibrant summer farmers' market and Friday night Street Faire, which brings to town musical acts from across the West. Earlier this summer, the annual Louisville Fourth of July celebration included the traditional fireworks show and a giveaway of 4,000 hot dogs and bratwursts cooked by the mayor and city council, part of a longstanding tradition. Money Magazine also remarked on Louisville's share of the legendary Colorado sunshine and beautiful open spaces. In a town of 18,000 residents, Louisville has over 2000 acres of open space, 26 parks and nearly 30 miles of trails, most with panoramic views of the Front Range Mountains.

I congratulate both Louisville and the town of Superior, CO, which earned a ranking of 13th on the list. We know that Coloradans are proud of their outstanding communities, and it is only appropriate that Colorado is home to the ''Best Place to Live'' in the Nation. Congratulations again to the residents of Louisville.●

MESSAGE FROM THE PRESIDENT

A message from the President of the United States was communicated to the Senate by Mrs. Neiman, one of his secretaries.

EXECUTIVE MESSAGE REFERRED

As in executive session the Presiding Officer laid before the Senate a message from the President of the United States submitting a nomination which was referred to the Committee on Commerce, Science, and Transportation.

(The nomination received today is printed at the end of the Senate proceedings.)

MESSAGE FROM THE HOUSE

ENROLLED BILL SIGNED

At 9:32 a.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the Speaker has signed the following enrolled bill:

H.R. 3663. An act to amend title XVIII of the Social Security Act to delay the date on which the accreditation requirement under the Medicare Program applies to suppliers of durable medical equipment that are pharmacies.

The enrolled bill was subsequently signed by the President pro tempore (Mr. BYRD).

ENROLLED BILLS SIGNED

The President pro tempore (Mr. BYRD) reported that he had signed the following enrolled bills, previously signed by the Speaker of the House:

H.R. 1687. An act to designate the federally occupied building located at McKinley Avenue and Third Street, SW., Canton, Ohio, as the ''Ralph Regula Federal Building and United States Courthouse''.

H.R. 2053. An act to designate the United States courthouse located at 525 Magoffin Avenue in El Paso, Texas, as the ''Albert Armendariz, Sr., United States Courthouse''.

H.R. 2121. An act to authorize the Administrator of General Services to convey a parcel of real property in Galveston, Texas, to the Galveston Historical Foundation.

H.R. 2498. An act to designate the Federal building located at 844 North Rush Street in Chicago, Illinois, as the ''William O. Lipinski Federal Building''.

H.R. 2913. An act to designate the United States courthouse located at 301 Simonton Street in Key West, Florida, as the ''Sidney M. Aronovitz United States Courthouse''.

S. 1289. An act to improve title 18 of the United States Code.

At 10:06 a.m., a message from the House of Representatives, delivered by Mrs. Cole, one of its reading clerks, announced that pursuant to section 4 of the Ronald Reagan Centennial Commission Act of 2009 (Public Law 111–25), the Speaker appoints as members of the Ronald Reagan Centennial Commission the following Members on the part of the House: Mr. FOSTER of Illinois and Mr. MOORE of Kansas.

At 11:24 a.m., a message from the House of Representatives, delivered by Mrs. Cole, one of its reading clerks, announced that the House has agreed to the following concurrent resolution, without amendment:

S. Con. Res. 42: Concurrent resolution providing for the acceptance of a statue of Helen Keller, presented by the people of Alabama.

At 12:56 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House disagree to the amendment of the Senate to the bill (H.R. 2647) entitled ''An Act to authorize appropriations for fiscal year 2010 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, to provide special pays and allowances to certain members of the Armed Forces, expand concurrent receipt of military retirement and VA disability benefits to disabled military retirees, and for other purposes.'', and agree to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and that the following Members be the managers of the conference on the part of the House:

From the Committee on Armed Services, for consideration of the House bill and the Senate amendment, and modifications committed to conference: Messrs. SKELTON, SPRATT, ORTIZ, TAYLOR, ABERCROMBIE, REYES, SNYDER, SMITH of Washington, Ms. LORETTA SANCHEZ, Messrs. MCINTYRE, BRADY of Pennsylvania, ANDREWS, Mrs. DAVIS of California, Messrs. LANGEVIN, LARSEN of Washington, COOPER, MARSHALL, Ms. BORDALLO, Messrs. MCKEON, BARTLETT, THORNBERRY, JONES, AKIN, FORBES, MILLER of Florida, WILSON of South Carolina, LOBIONDO, BISHOP of Utah, TURNER and WITTMAN;

From the Permanent Select Committee on Intelligence, for consideration of matters within the jurisdiction of that committee under clause 11 of rule X: Messrs. REYES, SCHIFF and HOEKSTRA;

From the Committee on Education and Labor, for consideration of sections 243, 551–553, 585, 2833 and 2834 of the House bill and sections 531–534 and 3136 of the Senate amendment, and modifications committed to conference: Ms. WOOLSEY, Mr. ALTMIRE and Mrs. BIGGERT;

From the Committee on Energy and Commerce, for consideration of sections 247, 315 and 601 of the House bill and sections 311, 601, 2835 and 3118 of the Senate amendment, and modifications committed to conference: Messrs. WAXMAN, MARKEY of Massachusetts and BARTON of Texas;

From the Committee on Foreign Affairs, for consideration of sections 812, 907, 912, 1011, 1013, 1046, 1201, 1211, 1213–1215, 1226, 1230A, 1231, 1236, 1239, 1240, title XIII, sections 1513, 1516, 1517, and 2903 of the House bill and sections 1021, 1023, 1201–1203, 1205–1208, 1211–1214, subtitle D of title XII, title XIII and section 1517 of the Senate amendment, and modifications committed to conference: Messrs. BERMAN, ACKERMAN and Ms. ROS-LEHTINEN;

From the Committee on Homeland Security, for consideration of section 1101 of the House bill, and modifications committed to conference: Mr. THOMPSON of Mississippi, Ms. TITUS and Mr. BILIRAKIS;

From the Committee on House Administration, for consideration of subtitle H of title V of the Senate amendment, and modifications committed to conference: Messrs. CAPUANO, GONZALEZ and LUNGREN of California;

From the Committee on the Judiciary, for consideration of sections 583, 584, 1021 and 1604 of the House bill and sections 821, 911, 1031, 1033, 1056, 1086 and division E of the Senate amendment, and modifications committed to conference: Mr. NADLER of New York, Ms. ZOE LOFGREN of California and Mr. GOHMERT;

From the Committee on Natural Resources, for consideration of sections 1091 and 2308 of the Senate amendment, and modifications committed to conference: Messrs. RAHALL, FALEOMAVAEGA and HASTINGS of Washington;

From the Committee on Oversight and Government Reform, for consideration of sections 321, 322, 326–329, 335, 537, 666, 814, 815, 834, 1101–1107, 1110–1113 and title II of division D of the House bill and sections 323, 323A–323C, 814, 822, 824, 901, 911, 1056, 1086, 1101–1105 and 1162 of the Senate amendment, and modifications committed to conference: Messrs. TOWNS, LYNCH and FORTENBERRY;

From the Committee on Science and Technology, for consideration of sections 248, 819, 836, and 911 of the House bill and sections 801, 814, 833, 834, 912 and division F of the Senate amendment, and modifications committed to

conference: Messrs. GORDON of Tennessee, WU and SMITH of Nebraska;

From the Committee on Small Business, for consideration of section 830 of the House bill and sections 833, 834, 838, 1090 and division F of the Senate amendment, and modifications committed to conference: Ms. VELÁZQUEZ and Messrs. NYE and GRAVES;

From the Committee on Transportation and Infrastructure, for consideration of sections 315, 601 and 2811 of the House bill and sections 311, 601, 933, 2835, 8301, 6002, 6007, 6008, 6012 and 6013 of the Senate amendment, and modifications committed to conference: Mr. CUMMINGS, Ms. RICHARDSON and Mr. MICA;

From the Committee on Veterans Affairs, for consideration of sections 525, 583, 584 and section 121 of division D of the House bill and sections 573–575, 617, 711, subtitle E of title X, sections 1084 and 1085 of the Senate amendment, and modifications committed to conference: Messrs. RODRIGUEZ, DONNELLY of Indiana and BUYER.

Ordered further, that pursuant to clause 11 of rule I, the Speaker removes the gentleman from Texas, Mr. REYES, as a conferee from the Permanent Select Committee on Intelligence in the conference on disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2647) entitled ''An Act to authorize appropriations for fiscal year 2010 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, to provide special pays and allowances to certain members of the Armed Forces, expand concurrent receipt of military retirement and VA disability benefits to disabled military retirees, and for other purposes.'' and appoints the gentleman from Florida, Mr. ALCEE HASTINGS, to fill the vacancy.

At 6:22 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2997) making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 2010, and for other purposes.

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that on today, October 7, 2009, she had presented to the President of the United States the following enrolled bill:

S. 1289. An act to improve title 18 of the United States Code.

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–3265. A communication from the Assistant Secretary of Defense (Reserve Affairs), transmitting, pursuant to law, a report relative to proposed changes to its Fiscal Year 2008 National Guard and Reserve Equipment Appropriation from the Fiscal Year 2008 Department of Defense Appropriations Act; to the Committee on Armed Services.

EC–3266. A communication from the Acting Assistant Secretary, Bureau of Legislative Affairs, Department of State, transmitting, pursuant to law, a report relative to current military, diplomatic, political, and economic measures that are being or have been undertaken to complete our mission in Iraq successfully; to the Committee on Armed Services.

EC–3267. A communication from the General Counsel of the Federal Housing Finance Agency, transmitting, pursuant to law, the report of a rule entitled ''Federal Home Loan Bank Boards of Directors: Eligibility and Elections Final Rule'' (RIN2590–AA03) received in the Office of the President of the Senate on October 5, 2009; to the Committee on Banking, Housing, and Urban Affairs.

EC–3268. A communication from the General Counsel of the Federal Housing Finance Agency, transmitting, pursuant to law, the report of a rule entitled ''Post-Employment Restriction for Senior Examiners'' (RIN2590–AA19) received in the Office of the President of the Senate on October 2, 2009; to the Committee on Banking, Housing, and Urban Affairs.

EC–3269. A communication from the Acting Director, Office of Civilian Radioactive Waste Management, Department of Energy, transmitting, pursuant to law, the Office's 2008 Annual Report to Congress; to the Committee on Energy and Natural Resources.

EC–3270. A communication from the Acting Administrator, General Services Administration, Department of Defense and National Aeronautics and Space Administration, transmitting, pursuant to law, a report relative to additional lease prospectuses that support the U.S. General Services Administration's Fiscal Year 2010 Capital Investment and Leasing Program; to the Committee on Environment and Public Works.

EC–3271. A communication from the Chief of the Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''2009–2010 Per Diem Rates'' (Rev. Proc. 2009–47) received in the Office of the President of the Senate on October 5, 2009; to the Committee on Finance.

EC–3272. A communication from the Chief of the Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Guidance on 2009 Required Minimum Distributions'' (Notice 2009–82) received in the Office of the President of the Senate on October 1, 2009; to the Committee on Finance.

EC–3273. A communication from the Chief of the Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Tier III–Industry Director Directive–Field Directive on the Planning and Examination of IRC Section 263A Issues in the Auto Dealership'' (LMSB–04–0909–035) received in the Office of the President of the Senate on October 1, 2009; to the Committee on Finance.

EC–3274. A communication from the Chief of the Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Genetic Information Nondiscrimination Act'' (RIN1545–BI03) received in the Office of the President of the Senate on October 5, 2009; to the Committee on Finance.

EC–3275. A communication from the Assistant Secretary, Bureau of Political-Military Affairs, Department of State, transmitting, pursuant to law, an addendum to a certification, transmittal number: DDTC 066–09, of the proposed sale or export of defense articles, including technical data, and defense services to a Middle East country regarding any possible affects such a sale might have relating to Israel's Qualitative Military Edge over military threats to Israel; to the Committee on Foreign Relations.

EC–3276. A communication from the Assistant Secretary, Bureau of Political-Military Affairs, Department of State, transmitting, pursuant to law, an addendum to a certification, transmittal number: DDTC 092–09, of the proposed sale or export of defense articles, including technical data, and defense services to a Middle East country regarding any possible affects such a sale might have relating to Israel's Qualitative Military Edge over military threats to Israel; to the Committee on Foreign Relations.

EC–3277. A communication from the Assistant Secretary, Bureau of Political-Military Affairs, Department of State, transmitting, pursuant to law, an addendum to a certification, transmittal number: DDTC 103–09, of the proposed sale or export of defense articles, including technical data, and defense services to a Middle East country regarding any possible affects such a sale might have relating to Israel's Qualitative Military Edge over military threats to Israel; to the Committee on Foreign Relations.

EC–3278. A communication from the Assistant Secretary, Bureau of Political-Military Affairs, Department of State, transmitting, pursuant to law, an addendum to a certification, transmittal number: DDTC 105–09, of the proposed sale or export of defense articles, including technical data, and defense services to a Middle East country regarding any possible affects such a sale might have relating to Israel's Qualitative Military Edge over military threats to Israel; to the Committee on Foreign Relations.

EC–3279. A communication from the Under Secretary of Defense (Acquisition, Technology and Logistics), transmitting, pursuant to law, a Selected Acquisition Report relative to the Average Procurement Unit Cost for the E–2D Advanced Hawkeye program; to the Committee on Foreign Relations.

EC–3280. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the report of a petition to add workers from Lake Ontario Ordnance Works, Niagara Falls, New York, to the Special Exposure Cohort; to the Committee on Health, Education, Labor, and Pensions.

EC–3281. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the report of a petition to add workers from Norton Company, Worcester, Massachusetts, to the Special Exposure Cohort; to the Committee on Health, Education, Labor, and Pensions.

EC–3282. A communication from the Auditor of the District of Columbia, transmitting, pursuant to law, a report relative to the People's Counsel Agency Fund for Fiscal Year 2004; to the Committee on Homeland Security and Governmental Affairs.

EC–3283. A communication from the Auditor of the District of Columbia, transmitting, pursuant to law, a report relative to the People's Counsel Agency Fund for Fiscal Year 2003; to the Committee on Homeland Security and Governmental Affairs.

EC–3284. A communication from the Director, Strategic Human Resources Policy Division, Office of Personnel Management, transmitting, pursuant to law, the report of a rule

entitled ''General Schedule Locality Pay Areas'' (RIN3206–AL27) received in the Office of the President of the Senate on October 1, 2009; to the Committee on Homeland Security and Governmental Affairs.

EC–3285. A communication from the Director of Sustainable Fisheries, National Marine Fisheries Services, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Coastal Migratory Pelagic Resources of the Gulf of Mexico and South Atlantic; Closure'' (RIN0648–XR32) received in the Office of the President of the Senate on October 2, 2009; to the Committee on Commerce, Science, and Transportation.

EC–3286. A communication from the Director of Sustainable Fisheries, National Marine Fisheries Services, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries of the Northeastern United States; Northeast Multispecies Fishery; Modification of the Gear Requirements for the U.S./Canada Management Area'' (RIN0648–XR42) received in the Office of the President of the Senate on October 2, 2009; to the Committee on Commerce, Science, and Transportation.

EC–3287. A communication from the Director of Sustainable Fisheries, National Marine Fisheries Services, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries of the Northeastern United States; Scup Fishery; Adjustment to the 2009 Winter II Quota'' (RIN0648–XQ56) received in the Office of the President of the Senate on October 2, 2009; to the Committee on Commerce, Science, and Transportation.

EC–3288. A communication from the Director of Sustainable Fisheries, National Marine Fisheries Services, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Snapper-Grouper Fishery of the South Atlantic; Closure of the July–December 2009 Commercial Fishery for Vermillion Snapper in South Atlantic'' (RIN0648–XR06) received in the Office of the President of the Senate on October 2, 2009; to the Committee on Commerce, Science, and Transportation.

EC–3289. A communication from the Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries in the Western Pacific; Compensation to Federal Commercial Bottomfish and Lobster Fishermen Due to Fishery Closures in the Papahanaumokuakea Marine National Monument, Northeastern Hawaiian Islands'' (RIN0648–AW52) received in the Office of the President of the Senate on October 2, 2009; to the Committee on Commerce, Science, and Transportation.

EC–3290. A communication from the Acting Director of Sustainable Fisheries, National Marine Fisheries Services, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Ocean Perch for Vessels in the Bering Sea and Aleutian Islands Trawl Limited Access Fishery in the Western Aleutian District of the Bering Sea and Aleutian Islands Management Area'' (RIN0648–XR78) received in the Office of the President of the Senate on October 2, 2009; to the Committee on Commerce, Science, and Transportation.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of nominations were submitted:

By Mr. HARKIN for the Committee on Health, Education, Labor, and Pensions.

*M. Patricia Smith, of New York, to be Solicitor for the Department of Labor.

*William E. Spriggs, of Virginia, to be an Assistant Secretary of Labor.

*Joseph A. Main, of Virginia, to be Assistant Secretary of Labor for Mine Safety and Health.

*Regina M. Benjamin, of Alabama, to be Medical Director in the Regular Corps of the Public Health Service, subject to qualifications therefor as provided by law and regulations, and to be Surgeon General of the Public Health Service for a term of four years.

*Nomination was reported with recommendation that it be confirmed subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

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

By Mrs. FEINSTEIN (for herself and Mrs. BOXER):

S. 1759. A bill to authorize certain transfers of water in the Central Valley Project, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. LAUTENBERG (for himself and Mrs. GILLIBRAND):

S. 1760. A bill to amend the Public Health Service Act with regard to research on asthma, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Ms. LANDRIEU (for herself and Mr. VITTER):

S. 1761. A bill to provide an extension of the low-income housing credit placed-in-service date requirement for certain disaster areas; to the Committee on Finance.

By Mr. BROWNBACK (for himself and Mr. BROWN):

S. 1762. A bill to amend the Public Health Service Act to expand and intensify programs of the National Institutes of Health and the Centers for Disease Control and Prevention with respect to translational research and related activities concerning Down syndrome, 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 Mr. BUNNING (for himself, Mr. JOHANNS, Mr. DEMINT, Mr. CRAPO, Mr. VITTER, Mr. THUNE, Mr. RISCH, Mr. GREGG, Mr. GRASSLEY, Mr. WICKER, Mr. ENSIGN, Mr. COBURN, Mr. INHOFE, Mr. SESSIONS, Mr. VOINOVICH, Mr. CHAMBLISS, Mr. CORNYN, Mr. BROWNBACK, Mr. BARRASSO, Mr. ENZI, Mr. BURR, Mr. CORKER, Mr. KYL, Mr. MCCAIN, Mr. ALEXANDER, and Mr. ROBERTS):

S. Res. 307. A resolution to require that all legislative matters be available and fully scored by CBO 72 hours before consideration by any subcommittee or committee of the Senate or on the floor of the Senate; to the Committee on Rules and Administration.

By Mr. SHELBY (for himself and Mrs. LINCOLN):

S. Res. 308. A resolution recognizing and supporting the goals and ideals of National Runaway Prevention Month; considered and agreed to.

By Mrs. MURRAY (for herself, Mr. COCHRAN, Mr. DODD, Ms. MIKULSKI, Mr. FEINGOLD, Ms. COLLINS, Mr. BAYH, and Mrs. GILLIBRAND):

S. Con. Res. 46. A concurrent resolution recognizing the benefits of service-learning and expressing support for the goals of the National Learn and Serve Challenge; to the Committee on Health, Education, Labor, and Pensions.

ADDITIONAL COSPONSORS

S. 497

At the request of Mr. DURBIN, the name of the Senator from Delaware (Mr. KAUFMAN) was added as a cosponsor of S. 497, a bill to amend the Public Health Service Act to authorize capitation grants to increase the number of nursing faculty and students, and for other purposes.

S. 500

At the request of Mr. DURBIN, the name of the Senator from Oregon (Mr. MERKLEY) was added as a cosponsor of S. 500, a bill to amend the Truth in Lending Act to establish a national usury rate for consumer credit transactions.

S. 524

At the request of Mr. FEINGOLD, the name of the Senator from Florida (Mr. LEMIEUX) was added as a cosponsor of S. 524, a bill to amend the Congressional Budget and Impoundment Control Act of 1974 to provide for the expedited consideration of certain proposed rescissions of budget authority.

S. 526

At the request of Mrs. MCCASKILL, the name of the Senator from Ohio (Mr. BROWN) was added as a cosponsor of S. 526, a bill to provide in personam jurisdiction in civil actions against contractors of the United States Government performing contracts abroad with respect to serious bodily injuries of members of the Armed Forces, civilian employees of the United States Government, and United States citizen employees of companies performing work for the United States Government in connection with contractor activities, and for other purposes.

S. 624

At the request of Mr. DURBIN, the name of the Senator from Maine (Ms. SNOWE) 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. 653

At the request of Mr. CARDIN, the name of the Senator from North Carolina (Mr. BURR) was added as a cosponsor of S. 653, a bill to require the Secretary of the Treasury to mint coins in commemoration of the bicentennial of the writing of the Star-Spangled Banner, and for other purposes.

S. 686

At the request of Ms. MIKULSKI, the name of the Senator from Alaska (Mr. BEGICH) was added as a cosponsor of S. 686, a bill to establish the Social Work Reinvestment Commission to advise Congress and the Secretary of Health and Human Services on policy issues associated with the profession of social work, to authorize the Secretary to make grants to support recruitment for, and retention, research, and reinvestment in, the profession, and for other purposes.

S. 819

At the request of Mr. DURBIN, the name of the Senator from Oregon (Mr. MERKLEY) was added as a cosponsor of S. 819, a bill to provide for enhanced treatment, support, services, and research for individuals with autism spectrum disorders and their families.

S. 883

At the request of Mr. KERRY, the names of the Senator from Delaware (Mr. CARPER), the Senator from Idaho (Mr. CRAPO), the Senator from Montana (Mr. BAUCUS) and the Senator from Massachusetts (Mr. KIRK) were added as cosponsors of S. 883, a bill to require the Secretary of the Treasury to mint coins in recognition and celebration of the establishment of the Medal of Honor in 1861, America's highest award for valor in action against an enemy force which can be bestowed upon an individual serving in the Armed Services of the United States, to honor the American military men and women who have been recipients of the Medal of Honor, and to promote awareness of what the Medal of Honor represents and how ordinary Americans, through courage, sacrifice, selfless service and patriotism, can challenge fate and change the course of history.

S. 991

At the request of Mr. INHOFE, the name of the Senator from Georgia (Mr. CHAMBLISS) was added as a cosponsor of S. 991, a bill to declare English as the official language of the United States, to establish a uniform English language rule for naturalization, and to avoid misconstructions of the English language texts of the laws of the United States, pursuant to Congress' powers to provide for the general welfare of the United States and to establish a rule of naturalization under article I, section 8, of the Constitution.

S. 1067

At the request of Mr. FEINGOLD, the name of the Senator from Montana (Mr. TESTER) was added as a cosponsor of S. 1067, a bill to support stabilization and lasting peace in northern Uganda and areas affected by the Lord's Resistance Army through development of a regional strategy to support multilateral efforts to successfully protect civilians and eliminate the threat posed by the Lord's Resistance Army and to authorize funds for humanitarian relief and reconstruction, reconciliation, and transitional justice, and for other purposes.

S. 1076

At the request of Mr. MENENDEZ, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 1076, a bill to improve the accuracy of fur product labeling, and for other purposes.

S. 1197

At the request of Mr. DORGAN, the name of the Senator from Alaska (Mr. BEGICH) was added as a cosponsor of S. 1197, a bill to establish a grant program for automated external defibrillators in elementary and secondary schools.

S. 1273

At the request of Mr. DORGAN, the name of the Senator from Pennsylvania (Mr. CASEY) was added as a cosponsor of S. 1273, a bill to amend the Public Health Service Act to provide for the establishment of permanent national surveillance systems for multiple sclerosis, Parkinson's disease, and other neurological diseases and disorders.

S. 1379

At the request of Mr. THUNE, the name of the Senator from New Mexico (Mr. BINGAMAN) was added as a cosponsor of S. 1379, a bill to encourage energy efficiency and conservation and development of renewable energy sources for housing, commercial structures, and other buildings, and to create sustainable communities.

S. 1382

At the request of Mr. DODD, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 1382, a bill to improve and expand the Peace Corps for the 21st century, and for other purposes.

S. 1583

At the request of Mr. ROCKEFELLER, the name of the Senator from Michigan (Ms. STABENOW) was added as a cosponsor of S. 1583, a bill to amend the Internal Revenue Code of 1986 to extend the new markets tax credit through 2014, and for other purposes.

S. 1628

At the request of Mr. UDALL of Colorado, the name of the Senator from Delaware (Mr. KAUFMAN) was added as a cosponsor of S. 1628, a bill to amend title VII of the Public Health Service Act to increase the number of physicians who practice in underserved rural communities.

S. 1660

At the request of Ms. KLOBUCHAR, the name of the Senator from New Hampshire (Mrs. SHAHEEN) was added as a cosponsor of S. 1660, a bill to amend the Toxic Substances Control Act to reduce the emissions of formaldehyde from composite wood products, and for other purposes.

S. 1685

At the request of Mr. SANDERS, the name of the Senator from Michigan (Ms. STABENOW) 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 cos-of-living adjustment for such year, and for other purposes.

S. 1688

At the request of Mr. BENNETT, the name of the Senator from Oklahoma (Mr. INHOFE) was added as a cosponsor of S. 1688, a bill to prevent congressional reapportionment distortions by requiring that, in the questionnaires used in the taking of any decennial census of population, a checkbox or other similar option be included for respondents to indicate citizenship status or lawful presence in the United States.

S. 1694

At the request of Mr. ROCKEFELLER, the names of the Senator from New Jersey (Mr. LAUTENBERG) and the Senator from Massachusetts (Mr. KERRY) were added as cosponsors of S. 1694, a bill to allow the funding for the interoperable emergency communications grant program established under the Digital Television Transition and Public Safety Act of 2005 to remain available until expended through fiscal year 2012, and for other purposes.

S. 1709

At the request of Ms. STABENOW, the name of the Senator from Idaho (Mr. RISCH) was added as a cosponsor of S. 1709, a bill to amend the National Agricultural Research, Extension, and Teaching Policy Act of 1977 to establish a grant program to promote efforts to develop, implement, and sustain veterinary services, and for other purposes.

S. 1728

At the request of Mrs. MCCASKILL, the names of the Senator from Massachusetts (Mr. KERRY) and the Senator from Illinois (Mr. BURRIS) were added as cosponsors of S. 1728, a bill to amend the Internal Revenue Code of 1986 to modify the first-time homebuyer credit in the case of members of the Armed Forces and certain other Federal employees, and for other purposes.

S. 1731

At the request of Mr. REED, the name of the Senator from Minnesota (Mr. FRANKEN) was added as a cosponsor of S. 1731, a bill to require certain mortgagees to make loan modifications, to establish a grant program for State and local government mediation programs, to create databases on foreclosures, and for other purposes.

AMENDMENT NO. 2601

At the request of Mr. SANDERS, the name of the Senator from Vermont (Mr. LEAHY) was added as a cosponsor of amendment No. 2601 proposed to H.R. 3326, a bill making appropriations for the Department of Defense for the fiscal year ending September 30, 2010, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mrs. FEINSTEIN (for herself and Mrs. BOXER):

S. 1759. A bill to authorize certain transfers of water in the Central Valley

Project, and for other purposes; to the Committee on Energy and Natural Resources.

Mrs. FEINSTEIN. Mr. President, I rise today on behalf of myself and Senator BOXER to introduce the Water Transfer Facilitation Act of 2009.

The measure should reduce unnecessary delays in water transfers at a time when Central Valley farmers have been hard hit by a 3-year drought. It would allow new water transfers of roughly 250,000 to 300,000 acre-feet of water per year, depending on the rainfall that year.

Here is how the bill would work: it would grant new authority to the Bureau of Reclamation to approve water transfers between sellers and buyers in the San Joaquin Valley. The measure also would streamline environmental reviews for Central Valley water transfers by ensuring that they occur on a programmatic basis, instead of project-by-project basis as is current practice.

Here is why we need this bill: this past water year, South of Delta agriculture users received 10 percent of their contractual allocation from the Central Valley Project. At the same time others in the San Joaquin Valley, such as the Friant Division and the exchange contractors, had a surplus of water and were willing to sell some of their water to Westlands Water District, where fields have been fallowed and communities have close to 40 percent unemployment—yet there were serious obstacles to making those transfers happen.

That is why I am introducing this bill. It will address those obstacles.

Specifically, the bill will do three things to ease the drought crisis:

First, it would authorize transfers within San Joaquin Valley between Divisions of the Central Valley Project and among contractors within a Division by removing two of the biggest obstacles to these transfers.

Water users tell me that the Bureau of Reclamation has not allowed transfers of water if the water could have been used for irrigation or stored, or if the total amount of water transferred was more than what had been received on average the 3 years prior to 1992. These two conditions previously prevented a whole host of potential transfers of water.

Neither of these restrictions is necessary for environmental reasons, and removal of these two obstacles alone could make up to 100,000 or 150,000 acre-feet of water available for transfer to the communities most in need, according to the Bureau of Reclamation.

So, this bill would explicitly grant the Bureau the authority to approve these types of East-West transfers, as long as they qualify under environmental regulations.

Second, the bill directs the Department of the Interior to facilitate transfers from the Sacramento Valley to the San Joaquin Valley by doing programmatic consideration of all the environmental concerns, rather than requiring individual review on each transfer as is current practice.

Water users and the Bureau of Reclamation estimate that this step could facilitate up to 150,000 or 200,000 acre-feet of transfers each year.

Third, the bill also requires the Bureau of Reclamation to prepare a report and recommendations on how to facilitate transfers more efficiently and expeditiously, including transfers in all directions and between the state and federal projects.

The bill is supported by a great number of water users across the Central Valley, including: Friant Water Users Authority; San Joaquin River Exchange Contractors Authority; Delta-Mendota Canal Authority; Westlands Water District; Metropolitan Water District; Glen Colusa Irrigation District; Northern California Water Association; Banta-Carbona Irrigation District; Tehama-Colusa Canal Authority; Association of California Water Agencies; Placer County Water Agency; Conaway Preservation Group; Reclamation District 2035; and San Luis Water District.

Companion legislation is also being introduced today by Representatives COSTA and CARDOZA in the House of Representatives.

There is no question that the drought and federal pumping restrictions have had huge impacts on Central Valley Agriculture.

Nearly 500,000 acres of fields have been fallowed. Fields of fruit and nut trees have been stumped and uprooted. Some farmers simply chose to forego planting their row crops at all.

The agricultural industry estimates that about $700 million in revenues have been lost.

About 21,000 agriculture jobs have been lost, nearly all in San Joaquin Valley.

For example, Mendota unemployment is currently 37.4 percent.

Workers who once tended America's ''bread basket'' are now standing in bread lines.

The impacts are not limited to agriculture:

Urban areas like Los Angeles are imposing rate hikes for non-conserving households, limiting lawn irrigation, and other conservation measures.

Municipal industrial users south of Delta are restricted to 60 percent of their contractual allocation.

The truth is that this crisis has been building for some time—and there are several causes to blame.

California's population is close to 40 million, but its water infrastructure hasn't been updated in three decades.

Due to groundwater pumping, the Central Valley lost 60 million acre-feet of groundwater since 1962.

This year, Federal agencies imposed pumping restrictions to protect endangered species—yet there is some misconception about the scope of these restrictions.

In 2009, roughly 25 percent of delivery shortages for farms and water users due to pumping restrictions, about 500,000 acre-feet.

The other 75 percent of the restrictions were due to lack of run-off, about 1.6 million acre-feet.

So, the drought is largely to blame for California's water shortages.

Invasive and non-native species are also a threat. The non-native striped bass, although a popular sport fish, are top predators on native fish like the smelt.

Pollution remains a problem, despite water quality standards. Ammonia discharge may be a problem from wastewater treatment discharge, and toxic insecticides accumulate and contribute to the deterioration of the ecosystem.

So, California's water crisis is a complicated issue that cannot be simply solved by saying ''Turn on the Pumps.''

It is clear that we need solutions for the Delta, both long-term and short-term.

I am working with my colleagues on both.

The bill we are introducing today will provide more flexibility in the system, allowing water to flow more freely around the Central Valley. Just this past water year, 600,000 acre feet were transferred around the Central Valley, and this bill will allow even more water to flow.

But transfers alone cannot provide the entire solution—they are costly, and they are still constrained by the pumping restrictions.

So this legislation is just one of several steps we are taking to provide timely relief to farmers in the San Joaquin Valley.

In the Energy and Water Appropriations bill, there is $10 million for the construction of short term projects that could provide more water supply or flexibility, including Two Gates and the Intertie.

We also provided funding for the science that will be relied on by the Bay Delta Conservation Plan—our best long-term option to restore the Delta and improve water supply.

We also included funding for water recycling projects, and are working to authorize more projects to help communities develop local water supplies based on groundwater and desalination.

Finally, there is $750,000 for the National Academy of Sciences review of the two biological opinions that currently govern water flows in the Central Valley. The independent scientific study, announced by Secretaries Salazar and Locke last week, should be completed within six months.

The National Academy study will assess whether there are other ways to provide the same protections for endangered species, while supplying more water to the drought-stricken Central Valley. And it will put to rest any lingering questions about whether pumping restrictions in the Delta are based on the best available science.

It is a critical step to moving forward with any near-term and long-term solutions for the Delta.

This bill we are introducing today is but one of several steps we are taking to address the water crisis in California.

We look forward to an early hearing on this bill, and working with others towards its passage and implementation. I thank Senator BINGAMAN for his commitment to hold an early hearing on the bill.

Mr. President, I ask that the text of the bill and the letters of support be printed in the RECORD.

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

S. 1759

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 Transfer Facilitation Act of 2009''.

SEC. 2. AUTHORIZATION OF IRRIGATION WATER TRANSFERS, CENTRAL VALLEY PROJECT.

(a) IN GENERAL.—Subject to subsection (b), the following voluntary water transfers shall be considered to meet the conditions described in subparagraphs (A) and (I) of section 3405(a)(1) of the Reclamation Projects Authorization and Adjustment Act of 1992 (Public Law 102–575; 106 Stat. 4709):

(1) A transfer of irrigation water among Central Valley Project contractors from the Friant, San Felipe, West San Joaquin, and Delta divisions.

(2) A transfer of water among current or prior temporary or long-term water service, repayment, water rights settlement, or exchange contractors within a division of the Central Valley Project.

(b) CONDITION.—A transfer under subsection (a) shall be subject to the condition that the transfer not interfere with—

(1) the San Joaquin River Restoration Settlement Act (Public Law 111–11; 123 Stat. 1349), including the priorities described in section 10004(a)(4)(B) of that Act (123 Stat. 1350) relating to implementation of paragraph 16 of the Settlement (as defined in section 10003 of that Act (123 Stat. 1349)); and

(2) the Settlement.

SEC. 3. FACILITATION OF WATER TRANSFERS, CENTRAL VALLEY PROJECT.

(a) IN GENERAL.—As soon as practicable after the date of enactment of this Act, the Secretary of the Interior, acting through the Director of the United States Fish and Wildlife Service and the Commissioner of the Bureau of Reclamation (referred to in this section as the ''Secretary''), using such sums as are necessary, shall initiate and complete, on the most expedited basis practicable, the programmatic development of environmental documentation to facilitate voluntary water transfers within the Central Valley Project.

(b) INCLUSIONS.—The environmental documentation under subsection (a) shall include all applicable environmental reviews, permitting, and consultations, including the environmental documentation needed to address concerns with respect to the Giant Garter Snake (Thamnophis gigas).

SEC. 4. REPORT ON CENTRAL VALLEY PROJECT WATER TRANSFERS.

(a) IN GENERAL.—Not later than January 10, 2010, the Commissioner of the Bureau of Reclamation (referred to in this section as the ''Commissioner'') shall submit to the appropriate committees of Congress a report that—

(1) describes the status of efforts to help facilitate and improve the water transfers under this Act; and

(2) provides recommendations on ways to facilitate, and improve the process for—

(A) water transfers within the Central Valley Project; and

(B) water transfers between the Central Valley Project and State water projects.

(b) UPDATES.—Not later than July 15, 2010, and every 180 days thereafter until the Commissioner determines that no further Federal action is warranted or authorized with respect to the water transfers under this Act, the Commissioner shall update the report submitted under subsection (a).

SEC. 5. TECHNICAL CORRECTIONS.

Section 3405(a)(1) of the Central Valley Project Improvement Act (Public Law 102–575; 106 Stat. 4710) is amended—

(1) in the first sentence, by striking ''transfers to'' and inserting ''transfers of''; and

(2) in subparagraph (A), by striking ''to combination'' and inserting ''or combination''.

ASSOCIATION OF CALIFORNIA WATER AGENCIES,
October 5, 2009.

Re ACWA support for Water Transfer Legislation.

Senator DIANNE FEINSTEIN,
Hart Senate Office Building,
Washington, DC.
Senator BARBARA BOXER,
Hart Senate Office Building,
Washington, DC

DEAR SENATORS FEINSTEIN AND BOXER: Thank you for introducing water transfer legislation for the Central Valley Project (CVP) which ACWA is pleased to support. As California's water supply challenges multiply, this legislation can provide greater flexibility for management of CVP water supplies. As you know, ACWA's 450 public agency members are collectively responsible for 90 percent of the water delivered in California for residential and agricultural uses.

California's water supply situation is dire and worsening. Three years of below average precipitation along with heavy regulatory restrictions through the ESA and Biological Opinions, have seriously diminished California's water supplies. Under these conditions, it is essential that short term actions, such as provided by your legislation to flexibly enable water supplies to move across the San Joaquin Valley, be pursued.

Again, thank you for introducing water transfer legislation. ACWA looks forward to working with you to secure its passage in an expedited manner.

Sincerely,

TIMOTHY QUINN,
Executive Director.

SAN JOAQUIN RIVER WATER AUTHORITY,
San Joaquin, CA, October 5, 2009.

Re Support for Transfer Legislation for the Central Valley Project.

Senator DIANNE FEINSTEIN,
Hart Senate Office Building,
Washington, DC.

DEAR SENATOR FEINSTEIN: On behalf of the San Joaquin River Exchange Contractors Water Authority (Exchange Contractors), we thank you for introducing transfer legislation for the Central Valley Project (CVP) and we support your efforts and this legislation as a means of providing greater flexibility for management of CVP water supplies.

The diminished water deliveries to the CVP as a result of various regulatory restrictions, including the most recent delta smelt and salmon Biological Opinions and three years of below average precipitation statewide, have, as you know, created a desperate situation in the San Joaquin Valley.

While long-term solutions are being sought, numerous short term efforts are needed to help bridge the water supply gap and great flexibility, as provided in your legislation, to move water supplies within the San Joaquin Valley would be a useful tool.

The Exchange Contractors consist of four member agencies serving over 240,000 acres in the San Joaquin Valley in Fresno, Madera, Merced, and Stanislaus Counties.

We look forward to engaging in this effort and working closely with you and your staff in advancing this legislation and addressing California water issues.

Sincerely,

STEVE CHEDESTER,
Executive Director.

FRIANT WATER USERS AUTHORITY,
Lindsay, CA, October 1, 2009.

Subject SUPPORT for Transfer legislation for the Central Valley Project.

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

DEAR SENATOR FEINSTEIN, On behalf of Friant Water Users Authority (Authority), we thank you for introducing transfer legislation for the Central Valley Project (CVP) and we support your efforts and this legislation as a means of providing greater flexibility for management of CVP water supplies.

The diminished water deliveries to the CVP as a result of three years of below average precipitation amplified by various regulatory restrictions, including the ESA and the most recent delta smelt and salmon Biological Opinions, have, as you know, created a desperate situation in the San Joaquin Valley.

While long-term solutions are being sought, numerous short term efforts are needed to help bridge the water supply gap and greater flexibility, as provided in your legislation, to move water supplies across the San Joaquin Valley would be a useful tool: In addition, the legislation would help Friant districts affected by the SJR Settlement improve management of surface and groundwater supplies.

The Authority consists of nineteen member water, irrigation and public utility districts. The Friant Service area includes approximately one million acres and 15,000 mostly small family farms on the east side of the southern San Joaquin Valley (Madera, Fresno, Tulare and Kern County). Friant Division water supplies are also relied upon by several cities and towns, including the City of Fresno, as a major portion of their municipal and industrial water supplies.

We look forward to engaging in this effort and working closely with you and your staff in advancing this legislation and addressing California water issues.

Sincerely,

RONALD D. JACOBSMA,
Consulting General Manager.

PLACER COUNTY WATER AGENCY,
Auburn, CA, October 6, 2009.

Re Support for Central Valley Project water transfer legislation.

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

DEAR SENATOR FEINSTEIN: On behalf of Placer County Water Agency (PCWA), we thank you for introducing legislation authorizing and establishing a programmatic approach to promote and manage water transfers in California. We support your efforts and this legislation as a means of providing greater regulatory certainty for the management of Central Valley Project (CVP) water supplies for water users.

As you may be aware, PCWA has participated in water transfers in the past to help meet the needs of water users within the CVP and is intimately aware of the impacts diminished water deliveries cause to farmers and communities. Because of PCWA's experience with previous water transfers, we also would like an opportunity to meet you and your staff to discuss additional regulatory improvements to Reclamation law that would streamline future transfers.

Because of below average precipitation and regulatory requirements placed upon the CVP and its water users through the requirements established by the recent National Marine Fisheries Service biological opinions for endangered smelt and salmon, the impact to water users is severe. Your legislation will provide much needed relief in the form of a flexible and useful tool that will allow water to be transferred from willing parties to those in need within the State of California.

We look forward to working with you and your staff in the coming months in this important legislative effort, and appreciate your leadership in advancing this legislation and addressing California water issues so important to our collective future.

Sincerely,

GRAHAM L. ALLEN,
Chairman, Board of Directors.

THE METROPOLITAN WATER
DISTRICT OF SOUTHERN CALIFORNIA,
Los Angeles, CA, October 5, 2009.

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

DEAR SENATOR FEINSTEIN: The Metropolitan Water District of Southern California is pleased to support the legislation you are introducing related to water transfers for the Central Valley Project (CVP). This legislation will help provide good water management while providing flexibility for CVP customers.

As a regional wholesale water provider, Metropolitan provides water for nearly 19 million people throughout our six-county service area in Southern California. As Metropolitan and the entire state continue to address water supply challenges throughout California, the vitality of our economy and environment has been seriously affected. Your proposed legislation will help address these critically important issues.

Please let me know if we can be helpful in any way.

Sincerely,

JEFFREY KIGHTLINGER,
General Manager.

NORTHERN CALIFORNIA
WATER ASSOCIATION,
Sacramento, CA, October 2, 2009.

Re support for water transfer legislation.

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

DEAR SENATOR FEINSTEIN: On behalf of the Northern California Water Association (NCWA), we thank you for introducing legislation authorizing and establishing a permanent long-term program to promote and manage water transfers in the Central Valley of California. We support your efforts and this legislation as a means of providing greater flexibility in the management of Central Valley Project (CVP) and other water supplies to help meet unmet needs critical to the future of the State of California.

As you are aware, the devastating impacts of diminished water deliveries to the CVP as a result of three years of below average precipitation have been made even greater by the various regulatory restrictions, including the requirements established by the recent federal biological opinions for endangered fish under the ESA. Your legislation will provide immediate, much needed relief in the form of a flexible and useful tool that will allow water to be transferred from willing parties to those in need within the CVP.

NCWA was formed in 1992 to present a unified voice working to resolve California's water issues and protect the water rights and supplies of the diverse Northern California region, now and into the future. NCWA represents 54 agricultural water districts and agencies, private water companies, and individual water rights holders with rights and entitlements to the surface waters and groundwater resources of the Sacramento Valley. Many of our members can and will actively participate in this water transfer program. The language in your legislation directing the Bureau of Reclamation to work with other federal agencies to implement the necessary long-term environmental processes addressing impacts of a water transfer program on the ESA-listed Giant Garter Snake will be imperative to its usefulness and success.

We look forward to working with you and your staff in the coming months in this important legislative effort, and appreciate your leadership in advancing this legislation and addressing California water issues so important to our collective future.

Sincerely,

DONN ZEA,
President and CEO.

WESTLANDS WATER DISTRICT,
Fresno, CA, October 6, 2009.

Re Water Transfer Facilitation Act of 2009.

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

DEAR SENATOR FEINSTEIN: I am writing on behalf of Westlands Water District to express its support for your bill, the Water Transfer Facilitation Act of 2009, authorizing certain transfers of water in the Central Valley Project and other purposes. Water transfers are a critical tool for providing water supplies for areas that are faced with chronic water supply shortages. However, the approval process for many transfers often distract from their usefulness. Your legislation will bring important reform to existing transfer authorization thus increasing the efficacy of this essential water management tool.

As you are keenly aware, the chronic water supply shortages impacting the area of the San Joaquin Valley served by the Central Valley Project demands that water users in the affected area rely on water transfers. Moreover, the need to transfer water is often urgent and in response to climactic conditions that are frequently sporadic and ephemeral. Regrettably, bureaucratic process can unnecessarily thwart successful execution of a transfer. The clarity your legislation brings to existing authorizations will only improve the capability of water managers throughout the State to effectively respond to the ongoing crisis and put our scant water resources to use even more efficiently.

The westside of the San Joaquin Valley is inarguably the most transfer dependent region of the State. Your efforts to address this important matter are greatly appreciated. If there is anything I can do to be of help in connection with your efforts, please let me know.

Very truly yours,

THOMAS W. BIRMINGHAM,
General Manager General Counsel.

SAN LUIS AND DELTA MENDOTA
WATER AUTHORITY,
Los Banos, CA, October 5, 2009.

Re Water Transfer Facilitation Act of 2009.

Hon. DIANNE FEINSTEIN,
U.S. Senate,
Washington, DC.
Hon. BARBARA BOXER,
U.S. Senate,
Washington, DC.
Hon. DENNIS CARDOZA,
House of Representatives,
Washington, DC.
Hon. JIM COSTA,
House of Representatives,
Washington, DC.

DEAR SENATOR FEINSTEIN, SENATOR BOXER, MR. CARDOZA, AND MR. COSTA: I am writing on behalf of the San Luis & Delta-Mendota Water Authority to express our enthusiastic support for your bill, the Water Transfer Facilitation Act of 2009, authorizing certain transfers of water in the Central Valley Project and other purposes. Water transfers are essential to sound water management and often are time sensitive. Your legislation will bring important reform to existing transfer authorization thus increasing the efficacy of this essential water management tool.

As you are keenly aware, coping with California's water crisis and, in particular, the chronic water supply shortages impacting the Central Valley Project demands utilization of various best management practices including water transfers. Moreover, the need to transfer water is often urgent and in response to climactic conditions that are frequently sporadic and ephemeral. Regrettably, bureaucratic process can unnecessarily thwart successful execution of a transfer and the best management of this all too precious resource. The clarity your legislation brings to existing authorizations will only improve the capability of water managers throughout the State to effectively respond to the ongoing crisis and put our scant water resources to use even more efficiently.

The Westside of the great San Joaquin Valley is inarguably the most transfer dependent region of the State. Your efforts to address this important matter as well as your vast knowledge of and longstanding commitment to water resource issues vital to the State are most deeply appreciated. If there is anything I can do to be of further service to you in this cause, please do not hesitate to call.

Very truly yours,

DANIEL G NELSON,
Executive Director.

Mrs. BOXER. Mr. President, I rise to discuss the Water Transfer Facilitation Act of 2009. Senator FEINSTEIN and I have introduced this legislation to facilitate voluntary water transfers within the San Joaquin Valley.

Three years of below-average precipitation have restricted water supplies for much of California. Drought conditions have particularly affected agricultural communities in the San Joaquin Valley.

As a result of these water shortages, more than 500,000 acres of cropland have been fallowed in the San Joaquin Valley, and some cities on the west side of the Valley are facing nearly 40 percent unemployment.

Senator FEINSTEIN and I have worked with Representatives CARDOZA and COSTA to identify measures to address these water shortages. We included a measure in the Energy and Water appropriations bill allowing voluntary

water transfers between water users on the east and west side of the San Joaquin Valley.

The final provision included in the conference report will allow these transfers for a two-year trial period. We are now seeking to extend this provision permanently and to enable more water users to participate in these transfers.

In addition, our legislation directs the Department of the Interior to use a programmatic approach to environmental review for certain types of water transfers, helping to expedite them.

Finally, it requires the Department of the Interior to prepare a report and recommendations on how to facilitate water transfers throughout California, including between the State and Federal water projects.

These water transfers are an important tool for improving flexibility in managing water supplies, providing a mechanism for getting water to those communities who need it most. Preliminary estimates suggest that this legislation may enable the transfer of as much as 250,000 to 300,000 acre-feet of water per year to communities in need. This will provide a crucial resource to agricultural communities in California that lost 90 percent of their expected water allocations this year.

I look forward to working with my colleagues in the Senate and in the California delegation to advance this important legislation.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 307—TO REQUIRE THAT ALL LEGISLATIVE MATTERS BE AVAILABLE AND FULLY SCORED BY CBO 72 HOURS BEFORE CONSIDERATION BY ANY SUBCOMMITTEE OR COMMITTEE OF THE SENATE OR ON THE FLOOR OF THE SENATE

Mr. BUNNING (for himself, Mr. JOHANNS, Mr. DEMINT, Mr. CRAPO, Mr. VITTER, Mr. THUNE, Mr. RISCH, Mr. GREGG, Mr. GRASSLEY: Mr. WICKER, Mr. ENSIGN, Mr. COBURN, Mr. INHOFE, Mr. SESSIONS, Mr. VOINOVICH, Mr. CHAMBLISS, Mr. CORNYN, Mr. BROWNBACK, Mr. BARRASSO, Mr. ENZI, Mr. BURR, Mr. CORKER, Mr. KYL, Mr. MCCAIN, Mr. ALEXANDER, and Mr. ROBERTS) submitted the following resolution; which was referred to the Committee on Rules and Administration:

S. RES. 307

SECTION 1. PUBLIC AVAILABILITY OF LEGISLATION AND THE COST OF THAT LEGISLATION.

(a) COMMITTEES.—Rule XXVI of the Standing Rules of the Senate is amended by inserting at the end thereof the following:

''14. (a) It shall not be in order in a subcommittee or committee to proceed to any legislative matter unless the legislative matter and a final budget scoring by the Congressional Budget Office for the legislative matter has been publically available on the Internet as provided in subparagraph (b) in searchable form 72 hours (excluding Saturdays, Sundays and holidays except when the Senate is in session on such a day) prior to proceeding.

''(b) With respect to the requirements of subparagraph (a)—

''(1) the legislative matter shall be available on the official website of the committee; and

''(2) the final score shall be available on the official website of the Congressional Budget Office.

''(c) This paragraph may be waived or suspended in the subcommittee or committee only by an affirmative vote of ⅗ of the Members of the subcommittee or committee. An affirmative vote of ⅗ of the Members of the subcommittee or committee shall be required to sustain an appeal of the ruling of the Chair on a point of order raised under this paragraph.

''(d)(1) It shall not be in order in the Senate to proceed to a legislative matter if the legislative matter was proceeded to in a subcommittee or committee in violation of this paragraph.

''(2) This subparagraph may be waived or suspended in the Senate only by an affirmative vote of ⅗ of the Members, duly chosen and sworn. An affirmative vote of ⅗ of the Members of the Senate, duly chosen and sworn, shall be required in the Senate to sustain an appeal of the ruling of the Chair on a point of order raised under this subparagraph.

''(e) In this paragraph, the term 'legislative matter' means any bill, joint resolution, concurrent resolution, conference report, or substitute amendment but does not include perfecting amendments.''.

(b) SENATE.—Rule XVII of the Standing Rules of the Senate is amended by inserting at the end thereof the following:

''6. (a) It shall not be in order in the Senate to proceed to any legislative matter unless the legislative matter and a final budget scoring by the Congressional Budget Office for the legislative matter has been publically available on the Internet as provided in subparagraph (b) in searchable form 72 hours (excluding Saturdays, Sundays and holidays except when the Senate is in session on such a day) prior to proceeding.

''(b) With respect to the requirements of subparagraph (a)—

''(1) the legislative matter shall be available on the official website of the committee with jurisdiction over the subject matter of the legislative matter; and

''(2) the final score shall be available on the official website of the Congressional Budget Office.

''(c) This paragraph may be waived or suspended in the Senate only by an affirmative vote of ⅗ of the Members, duly chosen and sworn. An affirmative vote of ⅗ of the Members of the Senate, duly chosen and sworn, shall be required in the Senate to sustain an appeal of the ruling of the Chair on a point of order raised under this paragraph.

''(d) In this paragraph, the term 'legislative matter' means any bill, joint resolution, concurrent resolution, conference report, or substitute amendment but does not include perfecting amendments.''.

SEC. 2. PROTECTION OF CLASSIFIED INFORMATION.

Nothing in this resolution or any amendment made by it shall be interpreted to require or permit the declassification or posting on the Internet of classified information in the custody of the Senate. Such classified information shall be made available to Members in a timely manner as appropriate under existing laws and rules.

SENATE RESOLUTION 308—RECOGNIZING AND SUPPORTING THE GOALS AND IDEALS OF NATIONAL RUNAWAY PREVENTION MONTH

Mr. SHELBY (for himself and Mrs. LINCOLN) submitted the following resolution; which was considered and agreed to:

S. RES. 308

Whereas the number of runaway and homeless youth in the United States is staggering, with studies suggesting that between 1,600,000 and 2,800,000 youth live on the streets each year;

Whereas the problem of children who run away from home is widespread, as youth between 12 and 17 years of age are at a higher risk of homelessness than adults;

Whereas runaway youth are often expelled from their homes by their families, discharged by State custodial systems without adequate transition plans, separated from their parents by death and divorce, or physically, sexually, and emotionally abused at home;

Whereas runaway youth are often too poor to secure their own basic needs and are ineligible or unable to access adequate medical or mental health resources;

Whereas effective programs that provide support to runaway youth and assist them in remaining at home with their families can succeed through partnerships created among families, community-based human service agencies, law enforcement agencies, schools, faith-based organizations, and businesses;

Whereas preventing youth from running away from home and supporting youth in high-risk situations is a family, community, and national priority;

Whereas the future of the Nation is dependent on providing opportunities for youth to acquire the knowledge, skills, and abilities necessary to develop into safe, healthy, and productive adults;

Whereas the National Network for Youth and its members advocate on behalf of runaway and homeless youth and provide an array of community-based support to address their critical needs;

Whereas the National Runaway Switchboard provides crisis intervention and referrals to reconnect runaway youth with their families and link youth to local resources that provide positive alternatives to running away from home; and

Whereas during the month of November, the National Network for Youth and the National Runaway Switchboard are co-sponsoring National Runaway Prevention Month, in order to increase public awareness of the circumstances faced by youth in high-risk situations and to address the need to provide resources and support for safe, healthy, and productive alternatives for at-risk youth, their families, and their communities: Now, therefore, be it

Resolved, That the Senate recognizes and supports the goals and ideals of National Runaway Prevention Month.

SENATE CONCURRENT RESOLUTION 46—RECOGNIZING THE BENEFITS OF SERVICE-LEARNING AND EXPRESSING SUPPORT FOR THE GOALS OF THE NATIONAL LEARN AND SERVE CHALLENGE

Mrs. MURRAY (for herself, Mr. COCHRAN, Mr. DODD, Ms. MIKULSKI, Mr. FEINGOLD, Ms. COLLINS, Mr. BAYH, and Mrs. GILLIBRAND) submitted the following concurrent resolution; which

was referred to the Committee on Health, Education, Labor, and Pensions:

S. CON. RES. 46

Whereas service-learning is a teaching method that enhances academic learning by integrating classroom content with relevant activities aimed at addressing identified needs in a community or school;

Whereas service-learning has been used both in school and community-based settings as a teaching strategy to enhance learning by building on youth experiences, granting youth a voice in learning, and making instructional goals and objectives more relevant to youth;

Whereas service-learning addresses the dropout epidemic in the United States by making education more ''hands-on'' and relevant, and has been especially effective in addressing the dropout epidemic with respect to disadvantaged youth;

Whereas service-learning is proven to provide the greatest benefits to disadvantaged and at-risk youth by building self-confidence, which often translates into overall academic and personal success;

Whereas service-learning provides not only meaningful experiences, but improves the quantity and quality of interactions between youth and potential mentors in the community;

Whereas service-learning empowers youth as actively engaged learners, citizens, and contributors to the community;

Whereas youth engaged in service-learning provide critical service to the community by addressing a variety of needs in towns, cities, and States, including needs such as tutoring young children, care of the elderly, community nutrition, disaster relief, environmental stewardship, financial education, and public safety;

Whereas far-reaching and diverse research shows that service-learning enhances the academic, career, cognitive, and civic development of students in kindergarten through 12th grade, and students at institutions of higher education;

Whereas service-learning strengthens and increases the number of partnerships among institutions of higher education, local schools, and communities, which strengthens communities and improves academic learning;

Whereas service-learning programs allow a multitude of skilled and enthusiastic college students to serve in the communities surrounding their colleges;

Whereas service-learning programs engage students in actively addressing and solving pressing community issues and strengthen the ability of nonprofit organizations to meet community needs;

Whereas Learn and Serve America, a program established under subtitle B of title I of the National and Community Service Act of 1990 (42 U.S.C. 12521 et seq.), is the only Federally funded program dedicated to service-learning and engages more than 1,100,000 youth in service-learning each year;

Whereas Learn and Serve America is a highly cost-effective program, with an average cost of approximately $25 per participant and leverage of $1 for every Federal dollar invested;

Whereas the National Learn and Serve Challenge is an annual event that, in 2009, will take place October 5 through October 11; and

Whereas the National Learn and Serve Challenge spotlights the value of service-learning to young people, schools, college campuses, and communities, encourages others to launch service-learning activities, and increases recognition of Learn and Serve America: Now, therefore, be it:

Resolved by the Senate (the House of Representatives concurring), That Congress—

(1) recognizes the benefits of service-learning, which include—

(A) enriching and enhancing academic outcomes for youth;

(B) engaging youth in positive experiences in the community; and

(C) encouraging youth to make more constructive choices with regards to their lives;

(2) encourages schools, school districts, college campuses, community-based organizations, nonprofit organizations, and faith-based organizations to provide youth with more service-learning opportunities; and

(3) expresses support for the goals of the National Learn and Serve Challenge.

AMENDMENTS SUBMITTED AND PROPOSED

SA 2627. Mr. LEVIN (for himself and Mr. COBURN) submitted an amendment intended to be proposed by him to the bill H.R. 2847, making appropriations for the Departments of Commerce and Justice, and Science, and Related Agencies for the fiscal year ending September 30, 2010, and for other purposes.

SA 2628. Mr. LAUTENBERG submitted an amendment intended to be proposed by him to the bill H.R. 2847, supra; which was ordered to lie on the table.

SA 2629. Mr. McCAIN proposed an amendment to the bill H.R. 2847, supra.

SA 2630. Mr. VITTER submitted an amendment intended to be proposed by him to the bill H.R. 2847, supra.

SA 2631. Mr. COBURN submitted an amendment intended to be proposed by him to the bill H.R. 2847, supra; which was ordered to lie on the table.

SA 2632. Mr. COBURN submitted an amendment intended to be proposed by him to the bill H.R. 2847, supra; which was ordered to lie on the table.

SA 2633. Mr. COCHRAN submitted an amendment intended to be proposed by him to the bill H.R. 2847, supra; which was ordered to lie on the table.

SA 2634. Mr. CORNYN submitted an amendment intended to be proposed by him to the bill H.R. 2847, supra; which was ordered to lie on the table.

SA 2635. Mr. VITTER (for himself and Ms. LANDRIEU) submitted an amendment intended to be proposed by him to the bill H.R. 2847, supra; which was ordered to lie on the table.

SA 2636. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill H.R. 2847, supra; which was ordered to lie on the table.

SA 2637. Mr. BROWN submitted an amendment intended to be proposed by him to the bill H.R. 2847, supra; which was ordered to lie on the table.

SA 2638. Mr. BROWN submitted an amendment intended to be proposed by him to the bill H.R. 2847, supra; which was ordered to lie on the table.

SA 2639. Mr. BROWN submitted an amendment intended to be proposed by him to the bill H.R. 2847, supra; which was ordered to lie on the table.

SA 2640. Mr. BROWN submitted an amendment intended to be proposed by him to the bill H.R. 2847, supra; which was ordered to lie on the table.

SA 2641. Mr. LEVIN submitted an amendment intended to be proposed by him to the bill H.R. 2847, supra; which was ordered to lie on the table.

SA 2642. Mr. LEAHY submitted an amendment intended to be proposed by him to the bill H.R. 2847, supra; which was ordered to lie on the table.

SA 2643. Mr. ENSIGN (for himself and Mr. REID) submitted an amendment intended to be proposed by him to the bill H.R. 2847, supra; which was ordered to lie on the table.

SA 2644. Mr. VITTER (for himself, Mr. BENNETT, and Mr. ENZI) proposed an amendment to the bill H.R. 2847, supra.

SA 2645. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill H.R. 2847, supra; which was ordered to lie on the table.

SA 2646. Mr. BEGICH (for himself and Ms. MURKOWSKI) submitted an amendment intended to be proposed by him to the bill H.R. 2847, supra; which was ordered to lie on the table.

SA 2647. Mr. DURBIN submitted an amendment intended to be proposed by him to the bill H.R. 2847, supra.

SA 2648. Mr. ENSIGN submitted an amendment intended to be proposed by him to the bill H.R. 2847, supra; which was ordered to lie on the table.

SA 2649. Ms. MIKULSKI submitted an amendment intended to be proposed by her to the bill H.R. 2847, supra; which was ordered to lie on the table.

SA 2650. Mr. CHAMBLISS (for himself and Mr. ISAKSON) submitted an amendment intended to be proposed by him to the bill H.R. 2847, supra; which was ordered to lie on the table.

SA 2651. Ms. COLLINS submitted an amendment intended to be proposed by her to the bill H.R. 2847, supra; which was ordered to lie on the table.

SA 2652. Mr. FEINGOLD (for himself, Mr. SANDERS, Mr. KOHL, and Mr. GRASSLEY) submitted an amendment intended to be proposed by him to the bill H.R. 2847, supra; which was ordered to lie on the table.

SA 2653. Mr. BUNNING (for himself, Mr. VITTER, and Mr. BURR) proposed an amendment to the bill H.R. 2847, supra.

SA 2654. Mr. AKAKA proposed an amendment to the bill S. 728, to amend title 38, United States Code, to enhance veterans' insurance benefits, and for other purposes.

SA 2655. Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill H.R. 2847, making appropriations for the Departments of Commerce and Justice, and Science, and Related Agencies for the fiscal year ending September 30, 2010, and for other purposes; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 2627. Mr. LEVIN (for himself and Mr. COBURN) submitted an amendment intended to be proposed by him to the bill H.R. 2847, making appropriations for the Departments of Commerce and Justice, and Science, and Related Agencies for the fiscal year ending September 30, 2010, and for other purposes; as follows:

At the appropriate place, insert the following:

SEC. _____. (a) IN GENERAL.—The Attorney General shall direct sufficient funds to the Tax Division, including for hiring additional personnel, to ensure that the thousands of civil and criminal cases pending or referred during the 2010 fiscal year to the Tax Division or to an Office of a United States Attorney related to a United States person who owes taxes, interest, or penalties in connection with a foreign financial account at an offshore financial institution or who assisted in the establishment or administration of such an account are—

(1) acted on in a prompt fashion by a Federal prosecutor or attorney;

(2) resolved within a reasonable time period; and

(3) not allowed to accumulate into a backlog of inactive cases due to insufficient resources.

(b) REPROGRAMMING.—If necessary to carry out this section, the Attorney General shall submit a request during the fiscal year 2010 to reprogram funds necessary for the processing of such civil and criminal cases.

SA 2628. Mr. LAUTENBERG submitted an amendment intended to be proposed by him to the bill H.R. 2847, making appropriations for the Departments of Commerce and Justice, and Science, and Related Agencies for the fiscal year ending September 30, 2010, and for other purposes; which was ordered to lie on the table; as follows:

On page 203, between lines 23 and 24, insert the following:

SEC. 533. STATE PRICE PARITIES.

(a) DEFINITIONS.—In this section:

(1) STATE.—The term ''State'' means each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

(2) STATE PRICE PARITIES.—The term ''State price parities'' means the differences in consumer price levels between States, or ''Regional Price Parities'', as calculated by the Bureau of Economic Analysis.

(b) CALCULATION.—The Director of the Bureau of Economic Analysis shall regularly calculate and make public as an official statistic, not less frequently than annually, State price parities to determine the differences in consumer price levels between States.

(c) REPORT.—Not later than 60 days after the date of the enactment of this Act, the Director of the Bureau of Economic Analysis shall submit a report to Congress that describes—

(1) the method that will be used to calculate State price parities;

(2) the frequency with which such calculations will be made public; and

(3) the date on which State price parities shall first be published as an official statistic.

SA 2629. Mr. MCCAIN proposed an amendment to the bill H.R. 2847, making appropriations for the Departments of Commerce and Justice, and Science, and Related Agencies for the fiscal year ending September 30, 2010, and for other purposes; as follows:

On page 202, between lines 15 and 16, insert the following:

SEC. 530A. None of the funds made available in this Act for the Department of Justice may be used to investigate or enforce Federal laws related to the importation of prescription drugs by individuals for personal use, by pharmacists, or by wholesalers or to bring an action against such individuals, pharmacists, or wholesalers related to such importation: *Provided*, That the Department of Justice or its subagencies do not have a reasonable belief that the prescription drug at issue violates the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.): *Provided further*, That the prescription drug at issue is not a controlled substance, as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802), or a biological product, as defined in section 351 of the Public Health Service Act (42 U.S.C. 262).

SA 2630. Mr. VITTER submitted an amendment intended to be proposed by him to the bill H.R. 2847, making appropriations for the Departments of Commerce and Justice, and Science, and Related Agencies for the fiscal year ending September 30, 2010, and for other purposes; as follows:

At the appropriate place, insert the following:

SEC. ___. None of the amounts made available in this title under the heading ''COMMUNITY ORIENTED POLICING SERVICES'' may be used in contravention of section 642(a) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1373(a)).

SA 2631. Mr. COBURN submitted an amendment intended to be proposed by him to the bill H.R. 2847, making appropriations for the Departments of Commerce and Justice, and Science, and Related Agencies for the fiscal year ending September 30, 2010, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place in title III, insert the following:

SEC. ___. None of the funds appropriated under this Act may be used to carry out the functions of the Political Science Program in the Division of Social and Economic Sciences of the Directorate for Social, Behavioral, and Economic Sciences of the National Science Foundation.

SA 2632. Mr. COBURN submitted an amendment intended to be proposed by him to the bill H.R. 2847, making appropriations for the Departments of Commerce and Justice, and Science, and Related Agencies for the fiscal year ending September 30, 2010, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

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

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

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

(2) the report contains proprietary information.

SA 2633. Mr. COCHRAN submitted an amendment intended to be proposed by him to the bill H.R. 2847, making appropriations for the Departments of Commerce and Justice, and Science, and Related Agencies for the fiscal year ending September 30, 2010, and for other purposes; which was ordered to lie on the table; as follows:

On page 170, between lines 19 and 20, insert the following:

SEC. 220. EXEMPTION AUTHORITY.

(a) IN GENERAL.—Section 845 of title 18, United States Code, is amended by adding at the end the following:

''(d) The Attorney General may exempt from all or a part of the provisions of this chapter explosive materials or explosive devices containing such materials when a determination is made, by regulation, that the explosive materials or explosive devices—

''(1) are of a type that does not pose a threat to public safety; and

''(2) are unlikely to be used as a weapon.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect 180 days after the date of enactment of this Act.

SA 2634. Mr. CORNYN submitted an amendment intended to be proposed by him to the bill H.R. 2847, making appropriations for the Departments of Commerce and Justice, and Science, and Related Agencies for the fiscal year ending September 30, 2010, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. _____. None of the funds provided in this Act may be used by the Department of Justice to prosecute or otherwise sanction any individual who—

(1) provided input into the legal opinions by the Office of Legal Counsel of the Department of Justice analyzing the legality of the enhanced interrogation program;

(2) relied in good faith on those legal opinions; or

(3) was a member of Congress and was briefed on the enhanced interrogation program and did not object to the program going forward.

SA 2635. Mr. VITTER (for himself and Ms. LANDRIEU) submitted an amendment intended to be proposed by him to the bill H.R. 2847, making appropriations for the Departments of Commerce and Justice, and Science, and Related Agencies for the fiscal year ending September 30, 2010, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. _____. At the discretion of the Attorney General, funds appropriated under the heading ''Byrne Discretionary grants'' under funding for the Department of Justice in the Commerce, Justice, Science, and Related Agencies Appropriations Act, 2009 (Public Law 111-8) to the Louisiana District Attorney's Association for the purpose to support an early intervention program for at-risk elementary students may be available to the University of Louisiana-Lafayette for the same purpose.

SA 2636. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill H.R. 2847, making appropriations for the Departments of Commerce and Justice, and Science, and Related Agencies for the fiscal year ending September 30, 2010, and for other purposes; which was ordered to lie on the table; as follows:

On page 184, line 19, strike ''representation expenses:'' and insert ''representation expenses: *Provided further*, That not more than $500,000 shall be available for the establishment of an Assistant United States Trade Representative for Small Business:''.

SA 2637. Mr. BROWN submitted an amendment intended to be proposed by him to the bill H.R. 2847, making appropriations for the Departments of Commerce and Justice, and Science, and Related Agencies for the fiscal year ending September 30, 2010, and for other purposes; which was ordered to lie on the table; as follows:

On page 106, line 21, before the period, insert the following: '': *Provided further*, That

the International Trade Administration shall, not later than 180 days after the date of the enactment of this Act, report to Congress on the progress that has been made in carrying out the recommendations and objectives set forth in the 2003 report entitled 'Manufacturing in America: A Comprehensive Strategy to Address the Challenges to U.S. Manufacturers' ''.

SA 2638. Mr. BROWN submitted an amendment intended to be proposed by him to the bill H.R. 2847, making appropriations for the Departments of Commerce and Justice, and Science, and Related Agencies for the fiscal year ending September 30, 2010, and for other purposes; which was ordered to lie on the table; as follows:

On page 127, line 25, before the period insert the following: '': *Provided*, That, not later than 60 days after the date of enactment of this Act, the Inspector General of the Department of Justice shall evaluate actions taken by the Bureau of Prisons in response to recommendations issued by the Inspector General in 2007 and 2008 regarding exposure to cadmium, lead, and other metals at the Federal Correctional Institution located in Elkton, Ohio and submit to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives a report regarding the findings of the evaluation under this proviso''.

SA 2639. Mr. BROWN submitted an amendment intended to be proposed by him to the bill H.R. 2847, making appropriations for the Departments of Commerce and Justice, and Science, and Related Agencies for the fiscal year ending September 30, 2010, and for other purposes; which was ordered to lie on the table; as follows:

On page 185, line 5, before the period, insert the following: '': *Provided further*, That the United States Trade Representative shall, in the report to Congress required by section 163 of the Trade Act of 1974 (19 U.S.C. 2213), include information regarding the sanitary and phytosanitary standards of the countries from which the United States imports food and food products''.

SA 2640. Mr. BROWN submitted an amendment intended to be proposed by him to the bill H.R. 2847, making appropriations for the Departments of Commerce and Justice, and Science, and Related Agencies for the fiscal year ending September 30, 2010, and for other purposes; which was ordered to lie on the table; as follows:

On page 185, line 5, before the period, insert the following: '': *Provided further*, That the United States Trade Representative shall, in the report to Congress required by section 163 of the Trade Act of 1974 (19 U.S.C. 2213), include detailed information regarding Trade and Investment Framework Agreements, including the criteria used to determine the countries with which such agreements are initiated, the commitments sought from those countries regarding such agreements, and the time frame with which those commitments are to be achieved''.

SA 2641. Mr. LEVIN submitted an amendment intended to be proposed by him to the bill H.R. 2847, making appropriations for the Departments of Commerce and Justice, and Science, and Related Agencies for the fiscal year ending September 30, 2010, and for other purposes; which was ordered to lie on the table; as follows:

On page 170, between lines 19 and 20, insert the following:

SEC. 220. Of the amounts appropriated for the Edward Byrne Memorial Justice Assistance Grant Program under subpart 1 of part E of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3750 et seq.) under the heading ''STATE AND LOCAL LAW ENFORCEMENT ASSISTANCE'' under the heading ''OFFICE OF JUSTICE PROGRAMS'' under the heading ''STATE AND LOCAL LAW ENFORCEMENT ACTIVITIES'' under title II of the Omnibus Appropriations Act, 2009 (Public Law 111–8; 123 Stat. 579), at the discretion of the Attorney General, the amounts to be made available to Genesee County, Michigan for assistance for individuals transitioning from prison in Genesee County, Michigan pursuant to the joint statement of managers accompanying that Act may be made available to My Brother's Keeper of Genesee County, Michigan to provide assistance for individuals transitioning from prison in Genesee County, Michigan.

SA 2642. Mr. LEAHY submitted an amendment intended to be proposed by him to the bill H.R. 2847, making appropriations for the Departments of Commerce and Justice, and Science, and Related Agencies for the fiscal year ending September 30, 2010, and for other purposes; which was ordered to lie on the table; as follows:

On page 170, between lines 19 and 20, insert the following:

SEC. 220. BENEFITS FOR CERTAIN NONPROFIT EMERGENCY MEDICAL SERVICE PROVIDERS.

(a) SHORT TITLE.—This section may be cited as the ''Dale Long Emergency Medical Service Providers Protection Act''.

(b) ELIGIBILITY.—Section 1204 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796b) is amended—

(1) in paragraph (7), by striking ''public employee member of a rescue squad or ambulance crew;'' and inserting ''employee or volunteer member of a rescue squad or ambulance crew (including a ground or air ambulance service) that—

''(A) is a public agency; or

''(B) is (or is a part of) a nonprofit entity serving the public that—

''(i) is officially authorized or licensed to engage in rescue activity or to provide emergency medical services; and

''(ii) is officially designated as a pre-hospital emergency medical response agency;''; and

(2) in paragraph (9)—

(A) in subparagraph (A), by striking ''as a chaplain'' and all that follows through the semicolon, and inserting ''or as a chaplain;'';

(B) in subparagraph (B)(ii), by striking ''or'' after the semicolon;

(C) in subparagraph (C)(ii), by striking the period and inserting ''; or''; and

(D) by adding at the end the following:

''(D) a member of a rescue squad or ambulance crew who, as authorized or licensed by law and by the applicable agency or entity (and as designated by such agency or entity), is engaging in rescue activity or in the provision of emergency medical services.''.

(c) EFFECTIVE DATE.—The amendments made by subsection (b) shall apply only to injuries sustained on or after January 1, 2009.

(d) OFFSET.—The total amount appropriated under the heading ''SALARIES AND EXPENSES'' under the heading ''GENERAL ADMINISTRATION'' under this title is reduced by $1,000,000.

SA 2643. Mr. ENSIGN (for himself and Mr. REID) submitted an amendment intended to be proposed by him to the bill H.R. 2847, making appropriations for the Departments of Commerce and Justice, and Science, and Related Agencies for the fiscal year ending September 30, 2010, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. _____. JUDICIAL EDUCATION.

(a) SHORT TITLE.—This section may be cited as the ''Judicial Education Act of 2009''.

(b) FINDINGS.—Congress finds that the National Judicial College—

(1) continues to be an invaluable national resource improving the lives of all Americans by advancing fair, impartial, accessible, and timely justice through judicial education;

(2) serves as the national judicial education entity that performs assessments to determine content of training or education programs, creates curriculum, presents judicial education programs, and acts as a resource to States supporting their judicial education efforts;

(3) collaborates with Federal and State agencies and a broad-based network of public and private justice improvement entities to advance justice system improvement through judicial education;

(4) operates a national judicial education entity that conducts judicial education programs at its state-of-the-art educational facility on the campus of the University of Nevada Reno, regionally at sites across the United States, and in States to enhance the professional competence of the judiciary;

(5) is a resource to all States and the United States territories by training judges, lawyers, physicians, and scientists as adult educators to present judicial education programs in an interactive adult learning environment, including training them to teach in a distance-learning format; and

(6) has educated over 80,000 judges from all 50 States and the United States territories since 1963.

(c) ADDITIONAL NOTIFICATION AND REPORTING REQUIREMENTS.—

(1) NOTIFICATION.—Not later than 90 days after the end of each fiscal year during which funds are obligated from appropriations made pursuant to the authorization under subsection (d), the recipient of any such funds for any project authorized under subsection (d) shall submit to the United States Attorney General and the Administrative Office of the United States Courts written notification specifying—

(A) an accounting of participation and subject matter covered by the National Judicial College, including any universal decisions or declarations applying to sentencing recommendations, the impact of laws adopted by Acts of Congress, Federal regulations, agency and State governmental actions, decisions of the Federal Judiciary and State Supreme Courts, as well as advances of science and technology, or any other relevant or appropriate items of jurisprudence, during that fiscal year;

(B) the authorized use specified in subsection (d) that the project satisfies; and

(C) the amount of State or private funds obligated or expended under the project during that fiscal year, including expenditures on or occurring on Federal lands, United States territories, State lands, and private lands.

(2) REVIEW.—The Attorney General shall review the notifications submitted under

paragraph (1) for a fiscal year for the purpose of assessing the success of the National Judicial College in achieving the purposes of this section.

(3) ANNUAL REPORT.—The Attorney General shall prepare an annual report containing the results of the most recent review conducted under paragraph (2) and a summary of the notifications covered by the review.

(4) SUBMISSION OF REPORT.—Not later than 150 days after the end of each fiscal year, the report required under paragraph (3) for that fiscal year shall be submitted to the Committees on the Judiciary of the Senate and House of Representatives and the Committees on Appropriations of the Senate and the House of Representatives.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Department of Justice to support the National Judicial College's judicial education activities, including those described under subsection (b) for improving the skills, abilities, and competency of State trial limited and general jurisdiction, appellate, tribal, military, municipal, adjunct judicial officers, magistrates, referees, justices of the peace, and administrative law judiciary—

(1) $1,500,000 for fiscal year 2010;
(2) $2,000,000 for fiscal year 2011;
(3) $2,000,000 for fiscal year 2012; and
(4) $2,000,000 for fiscal year 2013.

SA 2644. Mr. VITTER (for himself, Mr. BENNETT, and Mr. ENZI) proposed an amendment to the bill H.R. 2847, making appropriations for the Departments of Commerce and Justice, and Science, and Related Agencies for the fiscal year ending September 30, 2010, and for other purposes; as follows:

On page 110, line 7, strike ''activities.'' and insert ''activities: *Provided further*, That none of the funds provided in this Act or any other act for any fiscal year may be used for collection of census data that does not include questions regarding United States citizenship and immigration status.''

SA 2645. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill H.R. 2847, making appropriations for the Departments of Commerce and Justice, and Science, and Related Agencies for the fiscal year ending September 30, 2010, and for other purposes; which was ordered to lie on the table; as follows:

On page 125, between lines 10 and 11, insert the following:

SEC. 111. (a) REPORT ON DEPARTMENT OF COMMERCE ASSISTANCE TO COMMUNITIES.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Commerce shall submit to Congress a report on the effectiveness of the activities of the Department of Commerce that assist communities with significant job losses and high unemployment.

(b) CONTENTS.—The report required by subsection (a) shall include the following:

(1) An assessment of the effectiveness of the activities of the Department of Commerce that assist communities with significant job losses and high unemployment.

(2) An assessment of the efforts of the Secretary of Commerce to coordinate with other relevant Federal agencies to provide assistance to such communities, including the efficiency of such efforts.

(3) A summary of each memorandum of understanding between the Department of Commerce and another Federal agency relating to such assistance.

(4) A comparison of the role of the regional offices and the national office of the Department.

(5) The name or title of each person whom the Secretary has charged with coordinating with other Federal agencies for the provision of such assistance.

(6) A description of the impediments to coordination between the Department of Commerce and other Federal agencies for the provision of such assistance.

(7) A description of the instances in which the Secretary successfully coordinated with other Federal agencies to provide such assistance.

(8) The recommendations of the Secretary on how to improve the coordination among Federal agencies for the provision of such assistance, including with respect to the feasibility and advisability of establishing a single location where communities can obtain information about such assistance.

SA 2646. Mr. BEGICH (for himself and Ms. MURKOWSKI) submitted an amendment intended to be proposed by him to the bill H.R. 2847, making appropriations for the Departments of Commerce and Justice, and Science, and Related Agencies for the fiscal year ending September 30, 2010, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. _____. Section 112(a)(1) of the Consolidated Appropriations Act, 2004 (Public Law 108-199; 118 Stat. 62) is repealed.

SA 2647. Mr. DURBIN submitted an amendment intended to be proposed by him to the bill H.R. 2847, making appropriations for the Departments of Commerce and Justice, and Science, and Related Agencies for the fiscal year ending September 30, 2010, and for other purposes; which was ordered to lie on the table; as follows:

On page 203, between lines 23 and 24, insert the following:

SEC. 533. REVIEW AND AUDIT OF ACORN FEDERAL FUNDING.

(a) REVIEW AND AUDIT.—The Comptroller General of the United States shall conduct a review and audit of Federal funds awarded to the Association of Community Organizations for Reform Now (referred to in this section as ''ACORN'') or any subsidiary or affiliate of ACORN to determine—

(1) whether any Federal funds were misused and, if so, the total amount of Federal funds involved and how such funds were misused;

(2) what steps, if any, have been taken to recover any Federal funds that were misused;

(3) what steps should be taken to prevent the misuse of any Federal funds; and

(4) whether all necessary steps have been taken to prevent the misuse of any Federal funds.

(b) REPORT.—Not later than 180 days after the date of enactment of this Act, the Comptroller General shall submit to Congress a report on the results of the audit required under subsection (a), along with recommendations for Federal agency reforms.

SA 2648. Mr. ENSIGN submitted an amendment intended to be proposed by him to the bill H.R. 2847, making appropriations for the Departments of Commerce and Justice, and Science, and Related Agencies for the fiscal year ending September 30, 2010, and for other purposes; which was ordered to lie on the table; as follows:

On page 114, strike beginning with line 7 through line 14 and insert the following:

STATE CRIMINAL ALIEN ASSISTANCE PROGRAM

For an additional amount for the State Criminal Alien Assistance Program $172,000,000 to remain available until expended.

SA 2649. Ms. MIKULSKI submitted an amendment intended to be proposed by her to the bill H.R. 2847, making appropriations for the Departments of Commerce and Justice, and Science, and Related Agencies for the fiscal year ending September 30, 2010, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. 3-YEAR EXTENSION FOR ADMISSION OF NONIMMIGRANT NURSES IN HEALTH PROFESSIONAL SHORTAGE AREAS.

Section 2(e)(2) of the Nursing Relief for Disadvantaged Areas Act of 1999 (8 U.S.C. 1182 note) is amended by striking ''3 years'' and inserting ''6 years''.

SA 2650. Mr. CHAMBLISS (for himself and Mr. ISAKSON) submitted an amendment intended to be proposed by him to the bill H.R. 2847, making appropriations for the Departments of Commerce and Justice, and Science, and Related Agencies for the fiscal year ending September 30, 2010, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. _____. The amount allocated under the Byrne discretionary grant program to the Marcus Institute, Atlanta, GA, to provide remediation for the potential consequences of childhood abuse and neglect, in the report accompanying the Commerce, Justice, Science, and Related Agencies Appropriations Act, 2009 (Public Law 111–8) may be deemed to refer to the Georgia State University Center for Healthy Development, Atlanta, GA.

SA 2651. Ms. COLLINS submitted an amendment intended to be proposed by her to the bill H.R. 2847, making appropriations for the Departments of Commerce and Justice, and Science, and Related Agencies for the fiscal year ending September 30, 2010, and for other purposes; which was ordered to lie on the table; as follows:

On page 170, between lines 19 and 20, insert the following:

SEC. 220. Not later than 60 days after the date of enactment of this Act, the Attorney General, the Secretary of Homeland Security, and the Secretary of the Treasury shall jointly prepare and submit a report to the Committees on Appropriations of the Senate and the House of Representatives, the Committee on Homeland Security and Governmental Affairs of the Senate, and the Committee on Homeland Security of the House of Representatives. The report required under this section shall include—

(1) an explicit plan establishing specific and detailed milestones for the Integrated Wireless Network funded in this title under the heading ''Tactical Law enforcement Wireless Communications'', with dates for the planned completion of such network and the funds linked to achieving those milestones;

(2) a description of the technical standards and logical integration points between the

law enforcement radio communications systems of the Department of Justice, the Department of Homeland Security, and the Department of the Treasury needed to support and achieve interoperability between the respective communications systems when interoperability is required for tactical reasons or emergency situations; and

(3) an explanation of how the Integrated Wireless Network will promote interoperability with other federal departments and State and local governments.

SA 2652. Mr. FEINGOLD (for himself, Mr. SANDERS, Mr. KOHL, and Mr. GRASSLEY) submitted an amendment intended to be proposed by him to the bill H.R. 2847, making appropriations for the Departments of Commerce and Justice, and Science, and Related Agencies for the fiscal year ending September 30, 2010, and for other purposes; which was ordered to lie on the table; as follows:

On page 130, line 15, before the period at the end, insert ''*: Provided further*, That the Antitrust Division shall coordinate oversight, information-sharing, and joint activities concerning competition in the agriculture and related industries, including farm suppliers, food processors, and retailers, with other relevant agencies, such as the Federal Trade Commission, Commodity Futures Trading Commission, Department of Agriculture, and State Attorneys General, and include an emphasis on asymmetric price transmission from the retail to farm level as related to competition and increasing processor and retailer share of retail price: *Provided further*, That if the Assistant Attorney General for Antitrust determines that the Antitrust Division requires additional authority, data collection, or resources to address those issues, the Division shall submit to Congress a report that includes recommendations and proposals for legislative action''.

SA 2653. Mr. BUNNING proposed an amendment to the bill H.R. 2847, making appropriations for the Departments of Commerce and Justice, and Science, and Related Agencies for the fiscal year ending September 30, 2010, and for other purposes; as follows:

At the appropriate place, insert the following:

SEC. _____. (a) COMMITTEES.—Rule XXVI of the Standing Rules of the Senate is amended by inserting at the end thereof the following:

''14. (a) It shall not be in order in a subcommittee or committee to proceed to any legislative matter unless the legislative matter and a final budget scoring by the Congressional Budget Office for the legislative matter has been publically available on the Internet as provided in subparagraph (b) in searchable form 72 hours (excluding Saturdays, Sundays and holidays except when the Senate is in session on such a day) prior to proceeding.

''(b) With respect to the requirements of subparagraph (a)—

''(1) the legislative matter shall be available on the official website of the committee; and

''(2) the final score shall be available on the official website of the Congressional Budget Office.

''(c) This paragraph may be waived or suspended in the subcommittee or committee only by an affirmative vote of ⅗ of the Members of the subcommittee or committee. An affirmative vote of ⅗ of the Members of the subcommittee or committee shall be required to sustain an appeal of the ruling of the Chair on a point of order raised under this paragraph.

''(d)(1) It shall not be in order in the Senate to proceed to a legislative matter if the legislative matter was proceeded to in a subcommittee or committee in violation of this paragraph.

''(2) This subparagraph may be waived or suspended in the Senate only by an affirmative vote of ⅗ of the Members, duly chosen and sworn. An affirmative vote of ⅗ of the Members of the Senate, duly chosen and sworn, shall be required in the Senate to sustain an appeal of the ruling of the Chair on a point of order raised under this subparagraph.

''(e) In this paragraph, the term 'legislative matter' means any bill, joint resolution, concurrent resolution, conference report, or substitute amendment but does not include perfecting amendments.''.

(b) SENATE.—Rule XVII of the Standing Rules of the Senate is amended by inserting at the end thereof the following:

''6. (a) It shall not be in order in the Senate to proceed to any legislative matter unless the legislative matter and a final budget scoring by the Congressional Budget Office for the legislative matter has been publically available on the Internet as provided in subparagraph (b) in searchable form 72 hours (excluding Saturdays, Sundays and holidays except when the Senate is in session on such a day) prior to proceeding.

''(b) With respect to the requirements of subparagraph (a)—

''(1) the legislative matter shall be available on the official website of the committee with jurisdiction over the subject matter of the legislative matter; and

''(2) the final score shall be available on the official website of the Congressional Budget Office.

''(c) This paragraph may be waived or suspended in the Senate only by an affirmative vote of ⅗ of the Members, duly chosen and sworn. An affirmative vote of ⅗ of the Members of the Senate, duly chosen and sworn, shall be required in the Senate to sustain an appeal of the ruling of the Chair on a point of order raised under this paragraph.

''(d) In this paragraph, the term 'legislative matter' means any bill, joint resolution, concurrent resolution, conference report, or substitute amendment but does not include perfecting amendments.''.

(c) PROTECTION OF CLASSIFIED INFORMATION.—Nothing in this section or any amendment made by it shall be interpreted to require or permit the declassification or posting on the Internet of classified information in the custody of the Senate. Such classified information shall be made available to Members in a timely manner as appropriate under existing laws and rules.

SA 2654. Mr. AKAKA proposed an amendment to the bill S. 728, to amend title 38, United States Code, to enhance veterans' insurance benefits, and for other purposes; as follows:

On page 39, line 10, strike ''September 30, 2014'' and insert ''April 30, 2016''.

On page 54, strike line 18 and all that follows through page 61, line 6.

On page 61, strike line 7 and all that follows through page 64, line 16, and insert the following:

SEC. 501. INCREASE IN CERTAIN BURIAL AND FUNERAL BENEFITS AND PLOT ALLOWANCES FOR VETERANS.

(a) INCREASE IN BURIAL AND FUNERAL EXPENSES FOR DEATHS IN DEPARTMENT FACILITIES.—Section 2303(a)(1)(A) is amended by striking ''$300'' and inserting ''$745 (as increased from time to time under subsection (c))''.

(b) INCREASE IN AMOUNT OF PLOT ALLOWANCES.—Section 2303(b) is amended by striking ''$300'' each place it appears and inserting ''$745 (as increased from time to time under subsection (c))''.

(c) ANNUAL ADJUSTMENT.—Section 2303 is amended by adding at the end the following new subsection:

''(c) With respect to any fiscal year, the Secretary shall provide a percentage increase (rounded to the nearest dollar) in the burial and funeral expenses under subsection (a) and in the plot allowance under subsection (b), equal to the percentage by which—

''(1) the Consumer Price Index (all items, United States city average) for the 12-month period ending on the June 30 preceding the beginning of the fiscal year for which the increase is made, exceeds

''(2) the Consumer Price Index for the 12-month period preceding the 12-month period described in paragraph (1).''.

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply with respect to deaths occurring on or after October 1, 2010.

(2) PROHIBITION ON COST-OF-LIVING ADJUSTMENT FOR FISCAL YEAR 2011.—No adjustments shall be made under section 2303(c) of title 38, United States Code, as added by subsection (c), for fiscal year 2011.

SA 2655. Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill H.R. 2847, making appropriations for the Departments of Commerce and Justice, and Science, and Related Agencies for the fiscal year ending September 30, 2010, and for other purposes; which was ordered to lie on the table; as follows:

On page 202, between lines 15 and 16, insert the following:

SEC. 530A. None of the funds made available in this Act for the Department of Justice may be used to—

(1) prohibit the disclosure of information by any Federal Government agency or entity requested by a ranking minority member of any congressional committee of the Senate or the House of Representatives based upon section 552a(b)(9) of title 5, United States Code (commonly referred to as the Privacy Act of 1974); or

(2) advise, enforce, interpret, or provide guidance to the Department of Justice or any other Federal Government agency or entity, restricting disclosure of information to any ranking minority member of any congressional committee of the Senate or the House of Representatives based upon section 552a(b)(9) of title 5, United States Code (commonly referred to as the Privacy Act of 1974).

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 scheduled before the Senate Committee on Energy and Natural Resources, previously announced for October 1st, has been rescheduled and will now be held on Wednesday, October 14, 2009, at 10 a.m.

The purpose of this hearing is to receive testimony on Energy and Related Economic Effects of Global Climate Change Legislation.

Because of the limited time available for the hearing, witnesses may testify

by invitation only. However, those wishing to submit written testimony for the hearing record may do so by sending it to the Committee on Energy and Natural Resources, United States Senate, Washington, D.C. 20510–6150, or by e-mail to Gina_Weinstock@ energy.senate.gov

For further information, please contact Jonathan Black at (202) 224–6722 or Gina Weinstock at (202) 224–5684.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. DORGAN. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on October 7, 2009 at 2:30 p.m., to conduct a hearing entitled ''Securitization of Assets: Problems and Solutions.''

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

COMMITTEE ON FOREIGN RELATIONS

Mr. DORGAN. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on October 7, 2009, at 10 a.m., to hold a hearing entitled ''The Proposed U.S.–UAE Agreement on Civilian Nuclear Cooperation.''

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

COMMITTEE ON FOREIGN RELATIONS

Mr. DORGAN. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on October 7, 2009, at 10 a.m., to hold a hearing entitled ''Confronting al-Qaeda: The Challenge Today and Tomorrow.''

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

COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS

Mr. DORGAN. Mr. President, I ask unanimous consent that the Committee on Health, Education, Labor, and Pensions be authorized to meet during the sessions of the Senate on October 7, 2009, at 10 a.m. in room SD–430 of the Dirksen Senate Office Building.

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

COMMITTEE ON THE JUDICIARY

Mr. DORGAN. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate, on October 7, 2009, at 10 a.m. in room SD–226 of the Dirksen Senate Office Building, to conduct a hearing entitled ''Workplace Fairness: Has the Supreme Court Been Misinterpreting Laws Designed to Protect American Workers From Discrimination?''

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

COMMITTEE ON THE JUDICIARY

Mr. DORGAN. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate, on October 7, 2009, at 4 p.m. in room SD–226 of the Dirksen Senate Office Building, to conduct a hearing entitled ''Nominations.''

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

SUBCOMMITTEE ON COMMUNICATIONS, TECHNOLOGY, AND THE INTERNET

Mr. DORGAN. Mr. President, I ask unanimous consent that the Subcommittee on Communications, Technology, and the Internet of the Committee on Commerce, Science, and Transportation be authorized to meet during the session of the Senate on October 7, 2009, at 10 a.m., in room 253 of the Russell Senate Office Building.

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

SUBCOMMITTEE ON FEDERAL FINANCIAL MANAGEMENT, GOVERNMENT INFORMATION, FEDERAL SERVICES, AND INTERNATIONAL SECURITY

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 October 7, 2009, at 3 p.m. to conduct a hearing entitled, ''2010 Census: A Status Update of Key Decennial Operations.''

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

PRIVILEGES OF THE FLOOR

Mr. DORGAN. I ask unanimous consent that the following three individuals from Senator REID's office be granted the privileges of the floor for Thursday, October 8: Lauren Bateman, Caren Street, and Maria Urbina.

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

DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, 2010

The Senate, on Tuesday, October 6, 2009, passed H.R. 3326, as amended, as follows:

H.R. 3326

Resolved, That the bill from the House of Representatives (H.R. 3326) entitled ''An Act making appropriations for the Department of Defense for the fiscal year ending September 30, 2010, and for other purposes.'', do pass with the following amendment:

Strike out all after the enacting clause and insert:

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 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, $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), $149,746,000, 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 procurement 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 Departments, 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 intelligence 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 modify 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 WC–130 Weather Reconnaissance mission below 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 $194,000,000, 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 $336,000,000, 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, subactivity 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 delivery/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.

SEC. 8104. (a) REPORT ON GROUND-BASED INTERCEPTOR MISSILES.—Not later than 60 days after the date of the enactment of this Act, the Director of the Missile Defense Agency shall submit to the congressional defense committees a report on the utilization of funds to maintain the production line of Ground-Based Interceptor (GBI) missiles. The report shall include a plan for the utilization of funds for Ground-Based Interceptor missiles made available by this Act for the Midcourse Defense Segment, including—

(1) the number of Ground-based Interceptor missiles proposed to be produced during fiscal year 2010; and

(2) any plans for maintaining production of such missiles and the subsystems and components of such missiles.

(b) REPORT ON GROUND-BASED MIDCOURSE DEFENSE SYSTEM.—Not later than 120 days after the date of the enactment of this Act, the Director of the Missile Defense Agency shall submit to the congressional defense committees a report setting forth the acquisition strategy for the Ground-Based Midcourse Defense (GMD) system during fiscal years 2011 through 2016. The report shall include a description of the plans of the Missile Defense Agency for each of the following:

(1) To maintain the capability for production of Ground-Based Interceptor missiles.

(2) To address modernization and obsolescence of the Ground-Based Midcourse Defense system.

(3) To conduct a robust test program for the Ground-Based Midcourse Defense system.

SEC. 8105. (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 shall 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.

APOLOGY TO NATIVE PEOPLES OF THE UNITED STATES

SEC. 8106. (a) ACKNOWLEDGMENT AND APOLOGY.—The United States, acting through Congress—

(1) recognizes the special legal and political relationship Indian tribes have with the United States and the solemn covenant with the land we share;

(2) commends and honors Native Peoples for the thousands of years that they have stewarded and protected this land;

(3) recognizes that there have been years of official depredations, ill-conceived policies, and the breaking of covenants by the Federal Government regarding Indian tribes;

(4) apologizes on behalf of the people of the United States to all Native Peoples for the many instances of violence, maltreatment, and neglect inflicted on Native Peoples by citizens of the United States;

(5) expresses its regret for the ramifications of former wrongs and its commitment to build on the positive relationships of the past and present to move toward a brighter future where all the people of this land live reconciled as brothers and sisters, and harmoniously steward and protect this land together;

(6) urges the President to acknowledge the wrongs of the United States against Indian tribes in the history of the United States in order to bring healing to this land; and

(7) commends the State governments that have begun reconciliation efforts with recognized Indian tribes located in their boundaries and encourages all State governments similarly to work toward reconciling relationships with Indian tribes within their boundaries.

(b) DISCLAIMER.—Nothing in this section—

(1) authorizes or supports any claim against the United States; or

(2) serves as a settlement of any claim against the United States.

SEC. 8107. (a) REPORT ON USE OF LIVE PRIMATES IN TRAINING RELATING TO CHEMICAL AND BIOLOGICAL AGENTS.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the congressional defense committees a report setting forth a detailed description of the requirements for the use by the Department of Defense of live primates at the United States Army Medical Research Institute of Chemical Defense, and elsewhere, to demonstrate the effects of chemical or biological agents or chemical (such as physostigmine) or biological agent simulants in training programs.

(b) ELEMENTS.—The report required by subsection (a) shall include, at a minimum, the following:

(1) The number of live primates used in the training described in subsection (a).

(2) The average lifespan of primates from the point of introduction into such training programs.

(3) An explanation why the use of primates in such training is more advantageous and realistic than the use of human simulators or other alternatives.

(4) An estimate of the cost of converting from the use of primates to human simulators in such training.

SEC. 8108. (a) FINDINGS.—The Senate makes the following findings:

(1) Real time intelligence, surveillance, and reconnaissance (ISR) is critical to our warfighters in fighting the ongoing wars in Iraq and Afghanistan.

(2) Secretary of Defense Gates and the military leadership of the United States have highlighted the importance of collecting and disseminating critical intelligence and battlefield information to our troops on the ground in Iraq and Afghanistan.

(3) The Chief of Staff of the Air Force, General Norton Schwartz, has stated that the Air Force is ''all-in'' for the joint fight.

(4) One of the most effective and heavily tasked intelligence, surveillance, and reconnaissance assets operating today is the Air Force's E–8C Joint Surveillance Target Attack Radar System, also known as Joint STARS.

(5) Commanders in the field rely on Joint STARS to give them a long range view of the battlefield and detect moving targets in all weather conditions as well as tactical support to Brigade Combat Teams, Joint Tactical Air Controllers and Special Operations Forces convoy overwatch.

(6) Joint STARS is a joint platform, flown by a mix of active duty Air Force and Air National Guard personnel and operated by a joint Army, Air Force, and Marine crew, supporting missions for all the Armed Forces.

(7) With a limited number of airframes, Joint STARS has flown over 55,000 combat hours and 900 sorties over Iraq and Afghanistan and directly contributed to the discovery of hundreds of Improvised Explosive Devices.

(8) The current engines greatly limit the performance of Joint STARS aircraft and are the highest cause of maintenance problems and mission aborts.

(9) There is no other current or programmed aircraft or weapon system that can provide the detailed, broad-area ground moving target indicator (GMTI) and airborne battle management support for the warfighter that Joint STARS provides.

(10) With the significant operational savings that new engines will bring to the Joint STARS, re-engining Joint STARS will pay for itself by 2017 due to reduced operations, sustainment, and fuel costs.

(11) In December 2002, a JSTARS re-engining study determined that re-engining provided significant benefits and cost savings. However, delays in executing the re-engining program continue to result in increased costs for the re-engining effort.

(12) The budget request for the Department of Defense for fiscal year 2010 included $205,000,000 in Aircraft Procurement, Air Force, and $16,000,000 in Research, Development, Test, and Evaluation, Air Force for Joint STARS re-engining.

(13) On September 22, 2009, the Department of Defense re-affirmed their support for the President's Budget request for Joint STARS re-engining.

(14) On September 30, 2009, the Undersecretary of Defense (Acquisition, Technology, and Logistics) signed an Acquisition Decision Memorandum directing that the Air Force proceed with the Joint STARS re-engining effort, to include expenditure of procurement and research, development, test, and evaluation funds.

(b) SENSE OF SENATE.—It is the sense of the Senate that—

(1) Funds for re-engining of the E–8C Joint Surveillance Target Attack Radar System (Joint STARS) should be appropriated in the correct appropriations accounts and in the amounts required in fiscal year 2010 to execute the Joint STARS Re-Engining System Design and Development Program; and

(2) the Air Force should proceed with currently planned efforts to re-engine Joint STARS aircraft, to include expending both procurement and research, development, test, and evaluation funds.

SEC. 8109. (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.

SEC. 8110. (a) The Secretary of Defense shall conduct a study on defense contracting fraud and submit a report containing the findings of such study to the congressional defense committees.

(b) The report required under subsection (a) shall include—

(1) an assessment of the total value of Department of Defense contracts entered into to with contractors that have been indicted for, settled charges of, been fined by any Federal department or agency for, or been convicted of fraud in connection with any contract or other transaction entered into with the Federal Government; and

(2) recommendations by the Inspector General of the Department of Defense or other appropriate Department of Defense official regarding how to penalize contractors repeatedly involved in fraud in connection with contracts or other transactions entered into with the Federal Government.

SEC. 8111. Of the amount appropriated or otherwise made available by title IV under the heading ''RESEARCH, DEVELOPMENT, TEST, AND EVALUATION, ARMY'', $12,000,000 shall be available for the peer-reviewed Gulf War Illness Research Program of the Army run by Congressionally Directed Medical Research Programs.

SEC. 8112. (a) It is the sense of Congress that—

(1) All of the National Nuclear Security Administration sites, including the Nevada Test Site can play an effective and essential role in developing and demonstrating—

(A) innovative and effective methods for treaty verification and the detection of nuclear weapons and other materials; and

(B) related threat reduction technologies; and

(2) the Administrator for Nuclear Security should expand the mission of the Nevada Test Site to carry out the role described in paragraph (1), including by—

(A) fully utilizing the inherent capabilities and uniquely secure location of the Site;

(B) continuing to support the Nation's nuclear weapons program and other national security programs; and

(C) renaming the Site to reflect the expanded mission of the Site.

(b) Not later than one year after the date of the enactment of this Act, the Administrator for Nuclear Security shall submit to the congressional defense committees a plan for improving the infrastructure of the Nevada Test Site of the National Nuclear Security Administration and, if the Administrator deems appropriate, all other sites under the jurisdiction of the National Nuclear Security Administration—

(1) to fulfill the expanded mission of the Site described in subsection (a); and

(2) to make the Site available to support the threat reduction programs of the entire national security community, including threat reduction programs of the National Nuclear Security Administration, the Defense Threat Reduction Agency, the Department of Homeland Security, and other agencies as appropriate.

SEC. 8113. Of the amounts appropriated or otherwise made available by title II under the heading ''OPERATION AND MAINTENANCE, DEFENSE-WIDE'' and available for the Office of the Secretary of Defense, up to $250,000 may be available to the Under Secretary of Defense for Policy for the declassification of the nuclear posture review conducted under section 1041 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106–398; 114 Stat. 1654A–262) upon the release of the nuclear posture review to succeed such nuclear posture review.

SEC. 8114. Of the amount appropriated or otherwise made available by title II under the heading ''OPERATION AND MAINTENANCE, DEFENSE-WIDE'', up to $15,000,000 may be available for the implementation by the Department of Defense of the responsibilities of the Department under the Military and Overseas Voter Empowerment Act and the amendments made by that Act.

SEC. 8115. None of the funds appropriated or otherwise made available by this Act may be used to dispose of claims filed regarding water contamination at Camp Lejeune, North Carolina, until the Agency for Toxic Substances and Disease Registry (ATSDR) fully completes all current, ongoing epidemiological and water modeling studies pending as of the date of the enactment of this Act.

SEC. 8116. (a) LIMITATION ON AVAILABILITY OF FUNDS FOR EXECUTION OF CONTRACTS UNDER LOGCAP.—No later than 90 days after enactment of this Act none of the funds appropriated or otherwise made available by this Act may be obligated or expended for the execution of a contract under the Logistics Civil Augmentation Program (LOGCAP) unless the Secretary of the Army determines that the contract explicitly requires the contractor—

(1) to inspect and immediately correct deficiencies that present an imminent threat of death or serious bodily injury so as to ensure compliance with generally accepted electrical standards as determined by the Secretary of Defense in work under the contract;

(2) monitor and immediately correct deficiencies in the quality of any potable or non-potable water provided under the contract to ensure that safe and sanitary water is provided; and

(3) establish and enforce strict standards for preventing, and immediately addressing and cooperating with the prosecution of, any instances of sexual assault in all of its operations and the operations of its subcontractors.

(b) WAIVER.—The Secretary of the Army may waive the applicability of the limitation in subsection (a) to any contract if the Secretary certifies in writing to Congress that—

(1) the waiver is necessary for the provision of essential services or critical operating facilities for operational missions; or

(2) the work under such contract does not present an imminent threat of death or serious bodily injury.

SEC. 8117. None of the funds appropriated or otherwise made available by this Act may be used by the Secretary of the Army to transfer by sale, lease, loan, or donation government-owned ammunition production equipment or facilities to a private ammunition manufacturer until 60 days after the Secretary submits a certification to the congressional defense committees that the transfer will not increase the cost of ammunition procurement or negatively impact national security, military readiness, government ammunition production or the United States ammunition production industrial base. The certification shall include the Secretary of the Army's assessment of the following:

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

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

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

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

SEC. 8118. (a) None of the funds appropriated or otherwise made available by this Act may be used for any existing or new Federal contract if

the contractor or a subcontractor at any tier requires that an employee or independent contractor, as a condition of employment, sign a contract that mandates that the employee or independent contractor performing work under the contract or subcontract resolve through arbitration any claim under title VII of the Civil Rights Act of 1964 or any tort related to or arising out of sexual assault or harassment, including assault and battery, intentional infliction of emotional distress, false imprisonment, or negligent hiring, supervision, or retention.

(b) The prohibition in subsection (a) does not apply with respect to employment contracts that may not be enforced in a court of the United States.

SEC. 8119. (a) LIMITATION ON EARLY RETIREMENT OF TACTICAL AIRCRAFT.—The Secretary of the Air Force may not retire any tactical aircraft as announced in the Combat Air Forces structuring plan announced on May 18, 2009, until the Secretary submits to the congressional defense committees the report described in subsection (b).

(b) REPORT.—The report described in this subsection is a report that sets forth the following:

(1) A detailed plan for how the Secretary of the Air Force will fill the force structure and capability gaps resulting from the retirement of tactical aircraft under the structuring plan described in subsection (a).

(2) A description of the follow-on missions for each base affected by the structuring plan.

(3) An explanation of the criteria used for selecting the bases referred to in paragraph (2) and for the selection of tactical aircraft for retirement under the structuring plan.

(4) A plan for the reassignment of the regular and reserve Air Force personnel affected by the retirement of tactical aircraft under the structuring plan.

(5) An estimate of the cost avoidance to be achieved by the retirement of such tactical aircraft, and a description how such funds would be invested under the period covered by the most current future-years defense program.

SEC. 8120. (a) NATURE OF FULL AND OPEN COMPETITION FOR CONGRESSIONALLY DIRECTED SPENDING ITEMS.—Each congressionally directed spending item specified in this Act or the report accompanying this Act that is intended for award to a for-profit entity shall be subject to acquisition regulations for full and open competition on the same basis as each spending item intended for a for-profit entity that is contained in the budget request of the President.

(b) EXCEPTIONS.—Subsection (a) shall not apply to any contract awarded—

(1) by a means that is required by Federal statute, including for a purchase made under a mandated preferential program;

(2) pursuant to the Small Business Act (15 U.S.C. 631 et seq.); or

(3) in an amount less than the simplified acquisition threshold described in section 302A(a) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 252a(a)).

(c) CONGRESSIONALLY DIRECTED SPENDING ITEM DEFINED.—In this section, the term ''congressionally directed spending item'' means the following:

(1) A congressionally directed spending item, as defined in Rule XLIV of the Standing Rules of the Senate.

(2) A congressional earmark for purposes of rule XXI of the House of Representatives.

SEC. 8121. (a) FUNDING FOR TWO-STAGE GROUND-BASED INTERCEPTOR MISSILE.—Of the amounts appropriated or otherwise made available by this Act for a long-range missile defense system in Europe, or appropriated or otherwise made available for the Department of Defense for a long-range missile defense system in Europe from the Consolidated Security Disaster Assistance, and Continuing Appropriations Act of 2009 (Public Law 110–329) and available for obligation, no less than $50,000,000, and up to $151,000,000 shall be available for research, development, test, and evaluation of the two-stage ground-based interceptor missile.

(b) PROHIBITION ON DIVERSION OF FUNDS.—Funds appropriated or otherwise made available by this Act for the Missile Defense Agency for the purpose of research, development, and testing of the two-stage ground based interceptor missile shall be utilized solely for that purpose, and may not be reprogrammed or otherwise utilized for any other purpose.

(c) REPORT.—Not later than February 1, 2010, the Director of the Missile Defense Agency shall submit to the congressional defense committees a report setting forth the following:

(1) A comprehensive plan for the continued development and testing of the two-stage ground-based interceptor missile, including a description how the Missile Defense Agency will leverage the development and testing of such missile to modernize the Ground-based Midcourse Defense component of the ballistic missile defense system.

(2) Options for deploying an additional Ground-based Midcourse Defense site in Europe or the United States to provide enhanced defense in response to future long-range missile threats from Iran, and a description of how such a site may be made interoperable with the planned missile defense architecture for Europe and the United States.

SEC. 8122. (a) AMOUNT FOR EVALUATIONS OF CERTAIN LASER SYSTEMS.—Of the amount appropriated or otherwise made available by title IV under the heading ''RESEARCH, DEVELOPMENT, TEST AND EVALUATION, AIR FORCE'' and available for Advanced Weapons Technology (PE# 0603605F), up to $5,000,000 may be available to carry out the evaluations and analyses required by subsection (b).

(b) EVALUATIONS AND ANALYSES OF CERTAIN LASER SYSTEMS.—The Secretary of Defense shall, in a manner consistent with the October 8, 2008, report of the Air Force Scientific Advisory Board entitled ''Airborne Tactical Laser (ATL) Feasibility for Gunship Operations''—

(1) carry out additional enhanced user evaluations of the Advanced Tactical Laser system on a variety of instrumented targets; and

(2) enter into an agreement with a federally funded research and development center under which the center shall—

(A) conduct an analysis of the feasibility of integrating solid state laser systems onto C–130, B–1, and F–35 aircraft platforms to provide close air support; and

(B) estimate the cost per unit of such laser systems and the cost of operating and maintaining each such platform with such laser systems.

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 sealift, 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.

SEC. 9012. None of the funds made available under this Act may be distributed to the Association of Community Organizations for Reform Now (ACORN) or its subsidiaries.

SEC. 9013. The Secretary of Defense may, in consultation with the Secretary of State and the Administrator of the United States Agency for International Development, continue to support requirements for monthly integrated civilian-military training for civilians deploying to Afghanistan at Camp Atterbury, Indiana, including through the allocation of military and civilian personnel, trainers, and other resources for that purpose.

SEC. 9014. (a) HEARINGS ON STRATEGY AND RESOURCES WITH RESPECT TO AFGHANISTAN AND PAKISTAN.—Appropriate committees of Congress shall hold hearings, in open and closed session, relating to the strategy and resources of the United States with respect to Afghanistan and Pakistan promptly after the decision by the President on those matters is announced.

(b) TESTIMONY.—The hearings described in subsection (a) should include testimony from senior civilian and military officials of the United States, including, but not limited to, the following:

(1) The Secretary of Defense.

(2) The Secretary of State

(3) The Chairman of the Joint Chiefs of Staff.

(4) The Commander of the United States Central Command.

(5) The Commander of the United States European Command and Supreme Allied Commander, Europe.

(6) The Commander of United States Forces–Afghanistan.

(7) The United States Ambassador to Afghanistan.

(8) The United States Ambassador to Pakistan.

SEC. 9015. (a) FUNDING FOR OUTREACH AND REINTEGRATION SERVICES UNDER YELLOW RIBBON REINTEGRATION PROGRAM.—Of the amounts appropriated or otherwise made available by title IX. $20,000,000 shall be available for outreach and reintegration services under the Yellow Ribbon Reintegration Program under section 582(h) of the National Defense Authorization Act for Fiscal Year 2008 (Public Law 110–181; 122 Stat. 125; 10 U.S.C. 10101 note).

(b) SUPPLEMENT NOT SUPPLANT.—The amount made available by subsection (a) for the services described in that subsection is in addition to any other amounts available in this Act for such services.

This Act may be cited as the ''Department of Defense Appropriations Act, 2010''.

GOVERNMENT CHARGE CARD ABUSE PREVENTION ACT OF 2009

Mr. BENNET. Mr. President, I ask unanimous consent the Senate proceed to the immediate consideration of Calendar No. 163, S. 942.

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

The legislative clerk read as follows:

A bill (S. 942) to prevent the abuse of Government charge cards.

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

Mr. BENNET. I ask unanimous consent the bill be read a third time and passed, the motion to reconsider be laid upon the table with no intervening action or debate, and any statements be printed in the RECORD.

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

The bill (S. 942) was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 942

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 ''Government Charge Card Abuse Prevention Act of 2009''.

SEC. 2. MANAGEMENT OF PURCHASE CARDS.

(a) REQUIRED SAFEGUARDS AND INTERNAL CONTROLS.—The head of each executive agency that issues and uses purchase cards and convenience checks shall establish and maintain safeguards and internal controls to ensure the following:

(1) There is a record in each executive agency of each holder of a purchase card issued by the agency for official use, annotated with the limitations on single transactions and total transactions that are applicable to the use of each such card or check by that purchase cardholder.

(2) Each purchase cardholder and individual issued a convenience check is assigned an approving official other than the cardholder with the authority to approve or disapprove transactions.

(3) The holder of a purchase card and each official with authority to authorize expenditures charged to the purchase card are responsible for—

(A) reconciling the charges appearing on each statement of account for that purchase card with receipts and other supporting documentation; and

(B) forwarding such reconciliation to the certifying official in a timely manner to enable the certifying official to ensure that the Federal Government ultimately pays only for valid charges.

(4) Any disputed purchase card charge, and any discrepancy between a receipt and other supporting documentation and the purchase card statement of account, is resolved in the manner prescribed in the applicable governmentwide purchase card contract entered into by the Administrator of General Services and in accordance with all laws and executive agency regulations.

(5) Payments on purchase card accounts are made promptly within prescribed deadlines to avoid interest penalties.

(6) Rebates and refunds based on prompt payment, sales volume, or other actions by the agency on purchase card accounts are reviewed for accuracy and properly recorded as a receipt to the agency that pays the monthly bill.

(7) Records of each purchase card transaction (including records on associated contracts, reports, accounts, and invoices) are retained in accordance with standard Government policies on the disposition of records.

(8) Periodic reviews are performed to determine whether each purchase cardholder has a need for the purchase card.

(9) Appropriate training regarding the proper use of purchase cards is provided to each purchase cardholder in advance of being issued a purchase card and periodically thereafter and to each official with responsibility for overseeing the use of purchase cards issued by an executive agency in advance of assuming such oversight duties and periodically thereafter.

(10) The executive agency has specific policies regarding the number of purchase cards issued by various component organizations and categories of component organizations, the credit limits authorized for various categories of cardholders, and categories of employees eligible to be issued purchase cards, and that those policies are designed to minimize the financial risk to the Federal Government of the issuance of the purchase cards and to ensure the integrity of purchase cardholders.

(11) The executive agency utilizes effective systems, techniques, and technologies to prevent or identify fraudulent purchases.

(12) The executive agency invalidates the purchase card of each employee who—

(A) ceases to be employed by the agency, immediately upon termination of the employment of the employee; or

(B) transfers to another unit of the agency immediately upon the transfer of the employee unless the agency determines that the units are covered by the same purchase card authority.

(13) The executive agency takes steps to recover the cost of any erroneous, improper, or illegal purchase made with a purchase card or convenience check by an employee, including, as necessary, through salary offsets.

(b) GUIDANCE ON MANAGEMENT OF PURCHASE CARDS.—Not later than 180 days after the date of the enactment of this Act, the Director of the Office of Management and Budget shall review the existing guidance and, as necessary, prescribe additional guidance governing the implementation of the safeguards and internal controls required by subsection (a) by executive agencies.

(c) PENALTIES FOR VIOLATIONS.—

(1) IN GENERAL.—The head of each executive agency shall provide for appropriate adverse personnel actions or other punishment to be imposed in cases in which employees of the agency violate agency policies implementing the guidance required by subsection (b) or make improper, erroneous, or illegal purchases with purchase cards or convenience checks.

(2) DISMISSAL.—Penalties prescribed for employee misuse of purchase cards or convenience checks shall include dismissal of the employee, as appropriate.

(3) REPORTS ON VIOLATIONS.—The guidance prescribed under subsection (b) shall direct each head of an executive agency with more than $10,000,000 in purchase card spending annually, and each Inspector General of such an executive agency on a semiannual basis, to submit to the Director of the Office of Management and Budget a joint report on violations or other actions covered by paragraph (1) by employees of such executive agency. At a minimum, the report shall set forth the following:

(A) A description of each violation.

(B) A description of any adverse personnel action, punishment, other action taken against the employee for such violation.

(d) RISK ASSESSMENTS AND AUDITS.—The Inspector General of each executive agency shall—

(1) conduct periodic assessments of the agency purchase card or convenience check programs to identify and analyze risks of illegal, improper, or erroneous purchases and payments in order to develop a plan for using such risk assessments to determine the scope, frequency, and number of periodic audits of purchase card or convenience check transactions;

(2) perform analysis or audits as necessary, of purchase card transactions designed to identify—

(A) potentially illegal, improper, erroneous, and abusive uses of purchase cards;

(B) any patterns of such uses; and

(C) categories of purchases that could be made by means other than purchase cards in order to better aggregate purchases and obtain lower prices (excluding transactions made under card-based strategic sourcing arrangements);

(3) report to the head of the executive agency concerned on the results of such analysis or audits; and

(4) report to the Director of the Office of Management and Budget on the implementation of recommendations made to the head of the executive agency to address findings of any analysis or audit of purchase card and convenience check transactions or programs for compilation and transmission by the Director to Congress and the Comptroller General.

(e) DEFINITION OF EXECUTIVE AGENCY.—In this section, the term ''executive agency'' has the meaning given such term in section 4(1) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(1)), except as provided under subsection (f)(1).

(f) RELATIONSHIP TO DEPARTMENT OF DEFENSE PURCHASE CARD REGULATIONS.—

(1) IN GENERAL.—The requirements of subsections (a) through (d) shall not apply to the Department of Defense.

(2) CONFORMING AMENDMENTS.—Section 2784 of title 10, United States Code, is amended—

(A) in subsection (b), by adding at the end the following new paragraphs:

''(11) That each purchase cardholder and individual issued a convenience check is assigned an approving official other than the cardholder with the authority to approve or disapprove transactions.

''(12) That the Department of Defense utilizes effective systems, techniques, and technologies to prevent or identify fraudulent purchases.

''(13) That the Department of Defense takes appropriate steps to invalidate the purchase card of each employee who—

''(A) ceases to be employed by the Department of Defense, immediately upon termination of the employment of the employee; or

''(B) transfers to another unit of the Department of Defense immediately upon the transfer of the employee unless the Secretary of Defense determines that the units are covered by the same purchase card authority.

''(14) That the Department of Defense takes appropriate steps to recover the cost of any erroneous, improper, or illegal purchase made with a purchase card or convenience check by an employee, including, as necessary, through salary offsets.

''(15) That the Inspector General of the Department of Defense conducts periodic assessments of purchase card or convenience check programs to identify and analyze risks of illegal, improper, or erroneous purchases and payments and uses such risk assessments to develop appropriate recommendations for corrective actions.''; and

(B) by adding at the end the following new subsection:

''(d) SEMIANNUAL REPORT.—The Secretary of Defense and the Inspector General of the Department of Defense, shall submit to the Director of the Office of Management and Budget on a semiannual basis a joint report on illegal, improper, or erroneous purchases and payments made with purchase cards or convenience checks by employees of the Department of Defense. At a minimum, the report shall include the following:

''(1) A description of each violation.

''(2) A description of any adverse personnel action, punishment, or other action taken against the employee for such violation.

''(3) A description of actions taken by the Department of Defense to address recommendations made to address findings arising out of risk assessments and audits conducted pursuant to this section.''.

SEC. 3. MANAGEMENT OF TRAVEL CARDS.

Section 2 of the Travel and Transportation Reform Act of 1998 (Public Law 105–264; 5 U.S.C. 5701 note) is amended by adding at the end the following new subsection:

''(h) MANAGEMENT OF TRAVEL CHARGE CARDS.—

''(1) REQUIRED SAFEGUARDS AND INTERNAL CONTROLS.—The head of each executive agency that has employees that use travel charge cards shall establish and maintain the following internal control activities to ensure the proper, efficient, and effective use of such travel charge cards:

''(A) There is a record in each executive agency of each holder of a travel charge card issued on behalf of the agency for official use, annotated with the limitations on amounts that are applicable to the use of each such card by that travel charge cardholder.

''(B) Rebates and refunds based on prompt payment, sales volume, or other actions by the agency on travel charge card accounts are monitored for accuracy and properly recorded as a receipt of the agency that employs the cardholder.

''(C) Periodic reviews are performed to determine whether each travel charge cardholder has a need for the travel charge card.

''(D) Appropriate training is provided to each travel charge cardholder and each official with responsibility for overseeing the use of travel charge cards issued by an executive agency.

''(E) Each executive agency has specific policies regarding the number of travel charge cards issued for various component organizations and categories of component organizations, the credit limits authorized for various categories of cardholders, and categories of employees eligible to be issued travel charge cards, and designs those policies to minimize the financial risk to the

Federal Government of the issuance of the travel charge cards and to ensure the integrity of travel charge cardholders.

''(F) Each executive agency ensures its contractual arrangement with each servicing travel charge card issuing contractor contains a requirement to evaluate the creditworthiness of an individual before issuing that individual a travel charge card, and that no individual be issued a travel charge card if that individual is found not creditworthy as a result of the evaluation (except that this paragraph shall not preclude issuance of a restricted use travel charge card or pre-paid card when the individual lacks a credit history or has a credit score below the minimum credit score established by the Office of Management and Budget). The Director of the Office of Management and Budget shall establish a minimum credit score for determining the creditworthiness of an individual based on rigorous statistical analysis of the population of cardholders and historical behaviors. Notwithstanding any other provision of law, such evaluation shall include an assessment of an individual's consumer report from a consumer reporting agency as those terms are defined in section 603 of the Fair Credit Reporting Act.

''(G) Each executive agency utilizes effective systems, techniques, and technologies to prevent or identify improper purchases.

''(H) Each executive agency ensures that the travel charge card of each employee who ceases to be employed by the agency is invalidated immediately upon termination of the employment of the employee.

''(I) Each executive agency utilizes, where appropriate, direct payment to the holder of the travel card contract.

''(2) GUIDANCE ON MANAGEMENT OF TRAVEL CHARGE CARDS.—Not later than 180 days after the date of the enactment of this Act, the Director of the Office of Management and Budget shall review the existing guidance and, as necessary, prescribe additional guidance for executive agencies governing the implementation of the requirements in paragraph (1).

''(3) PENALTIES FOR VIOLATIONS.—

''(A) IN GENERAL.—Consistent with the guidance prescribed under paragraph (2), each executive agency shall provide for appropriate adverse personnel actions to be imposed in cases in which employees of the executive agency fail to comply with applicable travel charge card terms and conditions or applicable agency regulations or commit fraud with respect to a travel charge card, including removal in appropriate cases.

''(B) REPORTS ON VIOLATIONS.—The guidance prescribed under paragraph (2) shall require each head of an executive agency with more than $10,000,000 in travel card spending annually, and each inspector general of such an executive agency, on a semiannual basis, to submit to the Director of the Office of Management and Budget a joint report on violations or other actions covered by subparagraph (A) by employees of such executive agency. At a minimum, the report shall set forth the following:

''(i) A description of each violation.

''(ii) A description of any adverse personnel action, punishment, or other action taken against the employee for such violation or other action.

''(4) RISK ASSESSMENTS AND AUDITS.—The inspector general of each executive agency shall—

''(A) conduct periodic assessments of the agency travel charge card program and associated internal controls to identify and analyze risks of illegal, improper, or erroneous travel charges and payments in order to develop a plan for using such risk assessments to determine the scope, frequency, and number of periodic audits of travel charge card transactions;

''(B) perform periodic analysis and audits, as appropriate, of travel charge card transactions designed to identify potentially improper, erroneous, and illegal uses of travel charge cards;

''(C) report to the head of the executive agency concerned on the results of such analysis and audits; and

''(D) report to the Director of the Office of Management and Budget on the implementation of recommendations made to the head of the executive agency to address findings of any analysis or audit of travel charge card transactions or programs for compilation and transmission by the Director to Congress and the Comptroller General.

''(5) DEFINITIONS.—In this subsection:

''(A) The term 'executive agency' means an agency as that term is defined in subparagraphs (A) and (B) of section 5701(1) of title 5, United States Code.

''(B) The term 'travel charge card' means any Federal contractor-issued travel charge card that is individually billed to each cardholder.''.

SEC. 4. MANAGEMENT OF CENTRALLY BILLED ACCOUNTS.

(a) REQUIRED INTERNAL CONTROLS FOR CENTRALLY BILLED ACCOUNTS.—The head of an executive agency that has employees who use a travel charge card that is billed directly to the United States Government shall establish and maintain the following internal control activities:

(1) Items submitted on an employee's travel voucher shall be compared with items paid for using a centrally billed account on any related travel to ensure that an employee is not reimbursed for an item already paid for by the United States Government through a centrally billed account.

(2) The executive agency shall dispute unallowable and erroneous charges and track the status of the disputed transactions to ensure appropriate resolution.

(3) The executive agency shall submit requests to servicing airlines for refunds of fully or partially unused tickets, when entitled to such refunds, and track the status of unused tickets to ensure appropriate resolution.

(b) GUIDANCE.—Not later than 180 days after the date of the enactment of this Act, the Director of the Office of Management and Budget shall review the existing guidance and, as necessary, prescribe additional guidance for executive agencies implementing the requirements of subsection (a).

SEC. 5. CONSTRUCTION.

Nothing in this Act shall be construed to excuse the head of an executive agency from the responsibilities set out in section 3512 of title 31, United States Code, or in the Improper Payments Act of 2002 (31 U.S.C. 3321 note).

VETERANS' INSURANCE AND BENEFITS ENHANCEMENT ACT OF 2009

Mr. BENNET. Mr. President, I ask unanimous consent the Senate proceed to the immediate consideration of Calendar No. 155, S. 728.

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

The legislative clerk read as follows:

A bill (S. 728) to amend title 38, United States Code, to enhance veterans' insurance benefits, and for other purposes.

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Veterans' Affairs, with an amendment to strike all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Veterans' Benefits Enhancement Act of 2009''.

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

SEC. 2. REFERENCE TO TITLE 38, UNITED STATES CODE.

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

TITLE I—INSURANCE MATTERS

SEC. 101. INCREASE IN AMOUNT OF SUPPLEMENTAL INSURANCE FOR TOTALLY DISABLED VETERANS.

Section 1922A(a) is amended by striking ''$20,000'' and inserting ''$30,000''.

SEC. 102. ADJUSTMENT OF COVERAGE OF DEPENDENTS UNDER SERVICEMEMBERS' GROUP LIFE INSURANCE.

Clause (ii) of section 1968(a)(5)(B) is amended to read as follows:

''(ii)(I) in the case of a member of the Ready Reserve of a uniformed service who meets the qualifications set forth in subparagraph (B) or (C) of section 1965(5) of this title, 120 days after separation or release from such assignment; or

''(II) in the case of any other member of the uniformed services, 120 days after the date of the member's separation or release from the uniformed services; or''.

SEC. 103. EXPANSION OF INDIVIDUALS QUALIFYING FOR RETROACTIVE BENEFITS FROM TRAUMATIC INJURY PROTECTION COVERAGE UNDER SERVICEMEMBERS' GROUP LIFE INSURANCE.

(a) IN GENERAL.—Paragraph (1) of section 501(b) of the Veterans' Housing Opportunity and Benefits Improvement Act of 2006 (Public Law 109–233; 120 Stat. 414; 38 U.S.C. 1980A note) is amended by striking '', if, as determined by the Secretary concerned, that loss was a direct result of a traumatic injury incurred in the theater of operations for Operation Enduring Freedom or Operation Iraqi Freedom''.

(b) CONFORMING AMENDMENT.—The heading of such section is amended by striking ''IN OPERATION ENDURING FREEDOM AND OPERATION IRAQI FREEDOM''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 2010.

SEC. 104. CONSIDERATION OF LOSS OF DOMINANT HAND IN PRESCRIPTION OF SCHEDULE OF SEVERITY OF TRAUMATIC INJURY UNDER SERVICEMEMBERS' GROUP LIFE INSURANCE.

(a) IN GENERAL.—Section 1980A(d) is amended—

(1) by striking ''Payments under'' and inserting ''(1) Payments under''; and

(2) by adding at the end the following new paragraph:

''(2) As the Secretary considers appropriate, the schedule required by paragraph (1) may distinguish in specifying payments for qualifying losses between the severity of a qualifying loss of a dominant hand and a qualifying loss of a nondominant hand.''.

(b) PAYMENTS FOR QUALIFYING LOSSES INCURRED BEFORE DATE OF ENACTMENT.—

(1) IN GENERAL.—The Secretary of Veterans Affairs shall prescribe in regulations mechanisms for payments under section 1980A of title 38, United States Code, for qualifying losses incurred before the date of the enactment of this Act by reason of the requirements of paragraph (2) of subsection (d) of such section (as added by subsection (a)(2) of this section).

(2) QUALIFYING LOSS DEFINED.—In this subsection, the term ''qualifying loss'' means—

(A) a loss specified in the second sentence of subsection (b)(1) of section 1980A of title 38, United States Code; and

(B) any other loss specified by the Secretary of Veterans Affairs pursuant to the first sentence of that subsection.

SEC. 105. ENHANCEMENT OF VETERANS' MORTGAGE LIFE INSURANCE.

(a) IN GENERAL.—Section 2106(b) is amended by striking ''$90,000'' and inserting ''$150,000, or $200,000 after January 1, 2012,''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on October 1, 2010.

TITLE II—COMPENSATION AND PENSION MATTERS

SEC. 201. COST-OF-LIVING INCREASE FOR TEMPORARY DEPENDENCY AND INDEMNITY COMPENSATION PAYABLE FOR SURVIVING SPOUSES WITH DEPENDENT CHILDREN UNDER THE AGE OF 18.

Section 1311(f) is amended—

(1) in paragraph (1), by inserting ''(as increased from time to time under paragraph (4))'' after ''$250'';

(2) by redesignating paragraph (4) as paragraph (5); and

(3) by inserting after paragraph (3) the following new paragraph (4):

''(4) Whenever there is an increase in benefit amounts payable under title II of the Social Security Act (42 U.S.C. 401 et seq.) as a result of a determination made under section 215(i) of such Act (42 U.S.C. 415(i)), the Secretary shall, effective on the date of such increase in benefit amounts, increase the amount payable under paragraph (1), as such amount was in effect immediately prior to the date of such increase in benefit amounts, by the same percentage as the percentage by which such benefit amounts are increased. Any increase in a dollar amount under this paragraph shall be rounded down to the next lower whole dollar amount.''.

SEC. 202. ELIGIBILITY OF VETERANS 65 YEARS OF AGE OR OLDER FOR SERVICE PENSION FOR A PERIOD OF WAR.

(a) IN GENERAL.—Section 1513 is amended—

(1) in subsection (a), by striking ''by section 1521'' and all that follows and inserting ''by subsection (b), (c), (f)(1), (f)(5), or (g) of that section, as the case may be and as increased from time to time under section 5312 of this title.'';

(2) by redesignating subsection (b) as subsection (c); and

(3) by inserting after subsection (a) the following new subsection (b):

''(b) The conditions in subsections (h) and (i) of section 1521 of this title shall apply to determinations of income and maximum payments of pension for purposes of this section.''.

(b) APPLICABILITY.—The amendments made by this section shall apply with respect to any claim for pension filed on or after the date of the enactment of this Act.

SEC. 203. CLARIFICATION OF ADDITIONAL REQUIREMENTS FOR CONSIDERATION TO BE AFFORDED TIME, PLACE, AND CIRCUMSTANCES OF SERVICE IN DETERMINATIONS REGARDING SERVICE-CONNECTED DISABILITIES.

(a) IN GENERAL.—Subsection (a) of section 1154 is amended to read as follows:

''(a) The Secretary shall include in the regulations pertaining to service-connection of disabilities the following:

''(1) Provisions requiring that, in each case where a veteran is seeking service-connection for any disability, due consideration shall be given to the places, types, and circumstances of such veteran's service as shown by—

''(A) such veteran's service record;

''(B) the official history of each organization in which such veteran served;

''(C) such veteran's medical records; and

''(D) all pertinent medical and lay evidence.

''(2) Provisions generally recognizing circumstances in which lay evidence consistent with the place, conditions, dangers, or hardships associated with particular military service does not require confirmatory official documentary evidence in order to establish the occurrence of an event or exposure during active military, naval, or air service.

''(3) The provisions required by section 5 of the Veterans' Dioxin and Radiation Exposure Compensation Standards Act (Public Law 98–542; 98 Stat. 2727).''.

(b) REGULATIONS.—

(1) IN GENERAL.—Not later than 210 days after the date of the enactment of this Act, the Secretary of Veterans Affairs shall promulgate regulations to implement section 1154(a)(2) of title 38, United States Code, as added by subsection (a).

(2) INTERIM REGULATIONS.—In the case that the Secretary is unable to promulgate final regulations under paragraph (1) on or before the date that is 210 days after the date of the enactment of this Act, the Secretary shall promulgate interim regulations on or before such date to be in effect until such time as the Secretary promulgates final regulations.

SEC. 204. EXTENSION OF REDUCED PENSION FOR CERTAIN VETERANS COVERED BY MEDICAID PLANS FOR SERVICES FURNISHED BY NURSING FACILITIES.

Section 5503(d)(7) is amended by striking ''September 30, 2011'' and inserting ''September 30, 2014''.

SEC. 205. ENHANCEMENT OF DISABILITY COMPENSATION FOR CERTAIN DISABLED VETERANS WITH DIFFICULTIES USING PROSTHESES AND DISABLED VETERANS IN NEED OF REGULAR AID AND ATTENDANCE FOR RESIDUALS OF TRAUMATIC BRAIN INJURY.

(a) VETERANS SUFFERING ANATOMICAL LOSS OF HANDS, ARMS, OR LEGS.—Section 1114 is amended—

(1) in subsection (m)—

(A) by striking ''at a level, or with complications,'' and inserting ''with factors''; and

(B) by striking ''at levels, or with complications,'' and inserting ''with factors'';

(2) in subsection (n)—

(A) by striking ''at levels, or with complications,'' and inserting ''with factors'';

(B) by striking ''so near the hip as to'' and inserting ''with factors that''; and

(C) by striking ''so near the shoulder and hip as to'' and inserting ''with factors that''; and

(3) in subsection (o), by striking ''so near the shoulder as to'' and inserting ''with factors that''.

(b) VETERANS WITH SERVICE-CONNECTED DISABILITIES IN NEED OF REGULAR AID AND ATTENDANCE FOR RESIDUALS OF TRAUMATIC BRAIN INJURY.—

(1) IN GENERAL.—Such section is further amended—

(A) in subsection (p), by striking the semicolon at the end and inserting a period; and

(B) by adding at the end the following new subsection:

''(t) Subject to section 5503(c) of this title, if any veteran, as the result of service-connected disability, is in need of regular aid and attendance for the residuals of traumatic brain injury, is not eligible for compensation under subsection (r)(2), and in the absence of such regular aid and attendance would require hospitalization, nursing home care, or other residential institutional care, the veteran shall be paid, in addition to any other compensation under this section, a monthly aid and attendance allowance equal to the rate described in subsection (r)(2), which for purposes of section 1134 of this title shall be considered as additional compensation payable for disability. An allowance authorized under this subsection shall be paid in lieu of any allowance authorized by subsection (r)(1).''.

(2) CONFORMING AMENDMENT.—Section 5503(c) is amended by striking ''in section 1114(r)'' and inserting ''in subsection (r) or (t) of section 1114''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on August 31, 2010.

SEC. 206. COMMENCEMENT OF PERIOD OF PAYMENT OF ORIGINAL AWARDS OF COMPENSATION FOR VETERANS RETIRED OR SEPARATED FROM THE UNIFORMED SERVICES FOR CATASTROPHIC DISABILITY.

(a) COMMENCEMENT OF PERIOD OF PAYMENT.—Subsection (a) of section 5111 is amended—

(1) by inserting ''(1)'' after ''(a)'';

(2) in paragraph (1), as designated by paragraph (1) of this subsection, by striking ''in subsection (c) of this section'' and inserting ''in paragraph (2) of this subsection and subsection (c)''; and

(3) by adding at the end the following new paragraph:

''(2)(A) In the case of a veteran who is retired or separated from the active military, naval, or air service for a catastrophic disability or disabilities, payment of monetary benefits based on an award of compensation based on an original claim shall be made as of the date on which such award becomes effective as provided under section 5110 of this title or another applicable provision of law.

''(B) In this paragraph, the term 'catastrophic disability', with respect to a veteran, means a permanent, severely disabling injury, disorder, or disease that compromises the ability of the veteran to carry out the activities of daily living to such a degree that the veteran requires personal or mechanical assistance to leave home or bed, or requires constant supervision to avoid physical harm to self or others.''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on the date of the enactment of this Act and shall apply with respect to awards of compensation based on original claims that become effective on or after that date.

(c) TECHNICAL CORRECTION REGARDING WAIVER OF RETIRED PAY.—Section 5305 is amended by striking ''section 1414'' and inserting ''sections 1212(d)(2) and 1414''.

SEC. 207. APPLICABILITY OF LIMITATION TO PENSION PAYABLE TO CERTAIN CHILDREN OF VETERANS OF A PERIOD OF WAR.

Section 5503(d)(5) is amended—

(1) by inserting ''(A)'' after ''(5)''; and

(2) by adding at the end the following new subparagraph:

''(B) The provisions of this subsection shall apply with respect to a child entitled to pension under section 1542 of this title in the same manner as they apply to a veteran having neither spouse nor child.''.

SEC. 208. PAYMENT OF DEPENDENCY AND INDEMNITY COMPENSATION TO SURVIVORS OF FORMER PRISONERS OF WAR WHO DIED ON OR BEFORE SEPTEMBER 30, 1999.

Section 1318(b)(3) is amended by striking ''who died after September 30, 1999,''.

TITLE III—READJUSTMENT AND RELATED BENEFIT MATTERS

SEC. 301. REPEAL OF LIMITATION ON NUMBER OF VETERANS ENROLLED IN PROGRAMS OF INDEPENDENT LIVING SERVICES AND ASSISTANCE.

(a) IN GENERAL.—Section 3120 is amended—

(1) by striking subsection (e); and

(2) by redesignating subsection (f) as subsection (e).

(b) CONFORMING AMENDMENT.—Subsection (a) of such section is amended by striking ''described in subsection (f)'' and inserting ''described in subsection (e)''.

SEC. 302. ELIGIBILITY OF DISABLED VETERANS AND MEMBERS OF THE ARMED FORCES WITH SEVERE BURN INJURIES FOR AUTOMOBILES AND ADAPTIVE EQUIPMENT.

(a) ELIGIBILITY.—Paragraph (1) of section 3901 is amended—

(1) in subparagraph (A)—

(A) in the matter preceding clause (i), by striking ''in subclause (i), (ii), or (iii) below'' and inserting ''in clause (i), (ii), (iii), or (iv) of this subparagraph''; and

(B) by adding at the end the following new clause:

''(iv) A severe burn injury (as determined pursuant to regulations prescribed by the Secretary).''; and

(2) in subparagraph (B), by striking ''subclause (i), (ii), or (iii) of clause (A) of this paragraph'' and inserting ''clause (i), (ii), (iii), or (iv) of subparagraph (A)''.

(b) STYLISTIC AMENDMENTS.—Such section is further amended—

(1) in the matter preceding paragraph (1), by striking ''chapter—'' and inserting ''chapter:'';

(2) in paragraph (1)—

(A) in the matter preceding subparagraph (A), by striking ''means—'' and inserting ''means the following:'';

(B) in subparagraph (A)—

(i) in the matter preceding clause (i), by striking ''any veteran'' and inserting ''Any veteran'';

(ii) in clauses (i) and (ii), by striking the semicolon at the end and inserting a period; and

(iii) in clause (iii), by striking ''; or'' and inserting a period; and

(C) in subparagraph (B), by striking ''any member'' and inserting ''Any member''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 2010.

SEC. 303. ENHANCEMENT OF AUTOMOBILE ASSISTANCE ALLOWANCE FOR VETERANS.

(a) INCREASE IN AMOUNT OF ALLOWANCE.—Subsection (a) of section 3902 is amended by striking ''$11,000'' and inserting ''$22,500 (as adjusted from time to time under subsection (e))''.

(b) ANNUAL ADJUSTMENT.—Such section is further amended by adding at the end the following new subsection:

''(e)(1) Effective on October 1 of each year (beginning in 2011), the Secretary shall increase the dollar amount in effect under subsection (a) to an amount equal to 80 percent of the average retail cost of new automobiles for the preceding calendar year.

''(2) The Secretary shall establish the method for determining the average retail cost of new automobiles for purposes of this subsection. The Secretary may use data developed in the private sector if the Secretary determines the data is appropriate for purposes of this subsection.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 2010.

SEC. 304. PAYMENT OF UNPAID BALANCES OF DEPARTMENT OF VETERANS AFFAIRS GUARANTEED LOANS.

Section 3732(a)(2) is amended—

(1) by striking ''Before suit'' and inserting ''(A) Before suit''; and

(2) by adding at the end the following new subparagraph:

''(B) In the event that a housing loan guaranteed under this chapter is modified under the authority provided under section 1322(b) of title 11, the Secretary may pay the holder of the obligation the unpaid balance of the obligation due as of the date of the filing of the petition under title 11 plus accrued interest, but only upon the assignment, transfer, and delivery to the Secretary (in a form and manner satisfactory to the Secretary) of all rights, interest, claims, evidence, and records with respect to the housing loan.''.

TITLE IV—EMPLOYMENT AND REEMPLOYMENT RIGHTS OF MEMBERS OF THE UNIFORMED SERVICES

SEC. 401. WAIVER OF SOVEREIGN IMMUNITY UNDER THE 11TH AMENDMENT WITH RESPECT TO ENFORCEMENT OF USERRA.

(a) IN GENERAL.—Section 4323 is amended—

(1) in subsection (b) by striking paragraph (2) and inserting the following new paragraph:

''(2) In the case of an action against a State (as an employer) by a person, the action may be brought in the appropriate district court of the United States or State court of competent jurisdiction.'';

(2) by redesignating subsection (i) as subsection (j); and

(3) by inserting after subsection (h) the following new subsection (i):

''(i) WAIVER OF STATE SOVEREIGN IMMUNITY.—(1) A State's receipt or use of Federal financial assistance for any program or activity of a State shall constitute a waiver of sovereign immunity, under the 11th amendment to the Constitution or otherwise, to a suit brought by—

''(A) a person who is or was an employee in that program or activity for the rights or benefits authorized the person by this chapter;

''(B) a person applying to be such an employee in that program or activity for the rights or benefits authorized the person by this chapter; or

''(C) a person seeking reemployment as an employee in that program or activity for the rights or benefits authorized the person by this chapter.

''(2) In this subsection, the term 'program or activity' has the meaning given that term in section 309 of the Age Discrimination Act of 1975 (42 U.S.C. 6107).''.

(b) APPLICATION.—The amendments made by subsection (a) shall apply to—

(1) any failure to comply with a provision of or any violation of chapter 43 of title 38, United States Code, that occurs before, on, or after the date of the enactment of this Act; and

(2) all actions or complaints filed under such chapter 43 that are commenced after the date of the enactment of this Act.

SEC. 402. CLARIFYING THE DEFINITION OF "SUCCESSOR IN INTEREST".

(a) IN GENERAL.—Section 4303(4) is amended by adding at the end the following new subparagraph:

''(D)(i) Whether the term 'successor in interest' applies with respect to an entity described in subparagraph (A) for purposes of clause (iv) of such subparagraph shall be determined on a case-by-case basis using a multi-factor test that considers the following factors:

''(I) Substantial continuity of business operations.

''(II) Use of the same or similar facilities.

''(III) Continuity of work force.

''(IV) Similarity of jobs and working conditions.

''(V) Similarity of supervisory personnel.

''(VI) Similarity of machinery, equipment, and production methods.

''(VII) Similarity of products or services.

''(ii) The entity's lack of notice or awareness of a potential or pending claim under this chapter at the time of a merger, acquisition, or other form of succession shall not be considered when applying the multi-factor test under clause (i).''.

(b) APPLICATION.—The amendment made by subsection (a) shall apply to—

(1) any failure to comply with a provision of or any violation of chapter 43 of title 38, United States Code, that occurs before, on, or after the date of the enactment of this Act; and

(2) all actions or complaints filed under such chapter 43 that are pending on or after the date of the enactment of this Act.

SEC. 403. CLARIFYING THAT USERRA PROHIBITS WAGE DISCRIMINATION AGAINST MEMBERS OF THE ARMED FORCES.

(a) IN GENERAL.—Section 4303(2) is amended by striking ''other than'' and inserting ''including''.

(b) APPLICATION.—The amendment made by subsection (a) shall apply to—

(1) any failure to comply with a provision of or any violation of chapter 43 of title 38, United States Code, that occurs before, on, or after the date of the enactment of this Act; and

(2) all actions or complaints filed under such chapter 43 that are pending on or after the date of the enactment of this Act.

SEC. 404. REQUIREMENT THAT FEDERAL AGENCIES PROVIDE NOTICE TO CONTRACTORS OF POTENTIAL USERRA OBLIGATIONS.

(a) CIVILIAN AGENCIES.—The Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.) is amended by adding at the end the following new section:

''SEC. 318. NOTICE TO CONTRACTORS OF POTENTIAL OBLIGATIONS RELATING TO EMPLOYMENT AND REEMPLOYMENT OF MEMBERS OF THE ARMED FORCES.

''Each contract for the procurement of property or services that is entered into by the head of an executive agency shall include a notice to the contractor that the contractor may have obligations under chapter 43 of title 38, United States Code.''.

(b) ARMED FORCES.—

(1) IN GENERAL.—Chapter 137 of title 10, United States Code, is amended by adding at the end the following new section:

''§ 2334. Notice to contractors of potential obligations relating to employment and reemployment of members of the armed forces

''Each contract for the procurement of property or services that is entered into by the head of an executive agency shall include a notice to the contractor that the contractor may have obligations under chapter 43 of title 38.''.

(2) CLERICAL AMENDMENT.—The table of sections for such chapter is amended by adding at the end the following new item:

''2334. Notice to contractors of potential obligations relating to employment and reemployment of members of the armed forces.''.

SEC. 405. COMPTROLLER GENERAL OF THE UNITED STATES STUDY ON EFFECTIVENESS OF FEDERAL PROGRAMS OF EDUCATION AND OUTREACH ON EMPLOYER OBLIGATIONS UNDER USERRA.

(a) STUDY REQUIRED.—The Comptroller General of the United States shall conduct a study on the effectiveness of Federal programs of education and outreach on employer obligations under chapter 43 of title 38, United States Code.

(b) CONTENTS OF STUDY.—In carrying out the study required by subsection (a), the Comptroller General shall—

(1) assess current practices and procedures of Federal agencies for educating employers about their obligations under chapter 43 of title 38, United States Code;

(2) identify best practices for bringing the employment practices of small businesses into compliance with such chapter;

(3) determine whether the Employer Support for the Guard and Reserve, the Small Business Administration, or other agencies could collaborate to develop a program to educate employers regarding their obligations under such chapter; and

(4) determine the effect on recruitment and retention in the National Guard and Reserves of the failure of employers to meet their reemployment obligations under such chapter.

(c) REPORT TO CONGRESS.—Not later than June 30, 2010, the Comptroller General shall submit to Congress a report on the study conducted under subsection (a), including the following:

(1) The findings of the Comptroller General with respect to such study.

(2) The recommendations of the Comptroller General for the improvement of education and outreach for employers with respect to their obligations under chapter 43 of title 38, United States Code.

SEC. 406. TECHNICAL AMENDMENTS.

(a) AMENDMENT TO CONGRESSIONAL ACCOUNTABILITY ACT OF 1995.—Section 206(b) of the Congressional Accountability Act of 1995 (2 U.S.C. 1316(b)) is amended by striking ''under paragraphs (1), (2)(A), and (3) of section 4323(c) of title 38, United States Code'' and inserting ''under section 4323(d) of title 38, United States Code''.

(b) AMENDMENT TO SECTION 416 OF TITLE 3, UNITED STATES CODE.—Section 416(b) of title 3, United States Code, is amended by striking ''under paragraphs (1) and (2)(A) of section 4323(c) of title 38'' and inserting ''under section 4323(d) of title 38''.

(c) AMENDMENT TO SECTION 4324 OF TITLE 38, UNITED STATES CODE.—Section 4324(b)(4) of title 38, United States Code, is amended by inserting before the period the following: ''declining to initiate an action and represent the person before the Merit Systems Protection Board''.

TITLE V—BURIAL AND MEMORIAL MATTERS

SEC. 501. SUPPLEMENTAL BENEFITS FOR VETERANS FOR FUNERAL AND BURIAL EXPENSES.

(a) FUNERAL EXPENSES.—

(1) IN GENERAL.—Chapter 23 is amended by inserting after section 2302 the following new section:

''§ 2302A. Funeral expenses: supplemental benefits

''(a) IN GENERAL.—(1) Subject to the availability of funds specifically provided for purposes of this subsection in advance in an appropriations Act, whenever the Secretary makes a payment for the burial and funeral of a veteran under section 2302(a) of this title, the Secretary is also authorized and directed to pay the recipient of such payment a supplemental payment under this section for the cost of such burial and funeral.

''(2) No supplemental payment shall be made under this subsection if the Secretary has expended all funds that were specifically provided for purposes of this subsection in an appropriations Act.

''(b) AMOUNT.—The amount of the supplemental payment required by subsection (a) for any death is $900 (as adjusted from time to time under subsection (c)).

''(c) ADJUSTMENT.—With respect to deaths that occur in any fiscal year after fiscal year 2010, the supplemental payment described in subsection (b) shall be equal to the sum of—

''(1) the supplemental payment in effect under subsection (b) for the preceding fiscal year (determined after application of this subsection), plus

''(2) the sum of the amount described in section 2302(a) of this title and the amount under paragraph (1), multiplied by the percentage by which—

''(A) the Consumer Price Index (all items, United States city average) for the 12-month period ending on the June 30 preceding the beginning of the fiscal year for which the increase is made, exceeds

''(B) such Consumer Price Index for the 12-month period preceding the 12-month period described in subparagraph (A).

''(d) ESTIMATES.—(1) From time to time, the Secretary shall make an estimate of—

''(A) the amount of funding that would be necessary to provide supplemental payments under this section to all eligible recipients for the remainder of the fiscal year in which such an estimate is made; and

''(B) the amount that Congress would need to appropriate to provide all eligible recipients with supplemental payments under this section in the next fiscal year.

''(2) On the dates described in paragraph (3), the Secretary shall submit to the appropriate committees of Congress the estimates described in paragraph (1).

''(3) The dates described in this paragraph are the following:

''(A) April 1 of each year.

''(B) July 1 of each year.

''(C) September 1 of each year.

''(D) The date that is 60 days before the date estimated by the Secretary on which amounts appropriated for the purposes of this section for a fiscal year will be exhausted.

''(e) APPROPRIATE COMMITTEES OF CONGRESS DEFINED.—In this section, the term 'appropriate committees of Congress' means—

''(1) the Committee on Appropriations and the Committee on Veterans' Affairs of the Senate; and

''(2) the Committee on Appropriations and the Committee on Veterans' Affairs of the House of Representatives.''.

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item related to section 2302 the following new item:

''2302A. Funeral expenses: supplemental benefits.''.

(3) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Veterans Affairs such sums as may be necessary to carry out the provisions of section 2302A of title 38, United States Code (as added by this subsection).

(b) DEATH FROM SERVICE-CONNECTED DISABILITY.—

(1) IN GENERAL.—Chapter 23 is amended by inserting after section 2307 the following new section:

''§ 2307A. Death from service-connected disability: supplemental benefits for burial and funeral expenses

''(a) IN GENERAL.—(1) Subject to the availability of funds specifically provided for purposes of this subsection in advance in an appropriations Act, whenever the Secretary makes a payment for the burial and funeral of a veteran under section 2307(1) of this title, the Secretary is also authorized and directed to pay the recipient of such payment a supplemental payment

under this section for the cost of such burial and funeral.

''(2) No supplemental payment shall be made under this subsection if the Secretary has expended all funds that were specifically provided for purposes of this subsection in an appropriations Act.

''(b) AMOUNT.—The amount of the supplemental payment required by subsection (a) for any death is $2,100 (as adjusted from time to time under subsection (c)).

''(c) ADJUSTMENT.—With respect to deaths that occur in any fiscal year after fiscal year 2010, the supplemental payment described in subsection (b) shall be equal to the sum of—

''(1) the supplemental payment in effect under subsection (b) for the preceding fiscal year (determined after application of this subsection), plus

''(2) the sum of the amount described in section 2307(1) of this title and the amount under paragraph (1), multiplied by the percentage by which—

''(A) the Consumer Price Index (all items, United States city average) for the 12-month period ending on the June 30 preceding the beginning of the fiscal year for which the increase is made, exceeds

''(B) such Consumer Price Index for the 12-month period preceding the 12-month period described in subparagraph (A).

''(d) ESTIMATES.—(1) From time to time, the Secretary shall make an estimate of—

''(A) the amount of funding that would be necessary to provide supplemental payments under this section to all eligible recipients for the remainder of the fiscal year in which such an estimate is made; and

''(B) the amount that Congress would need to appropriate to provide all eligible recipients with supplemental payments under this section in the next fiscal year.

''(2) On the dates described in paragraph (3), the Secretary shall submit to the appropriate committees of Congress the estimates described in paragraph (1).

''(3) The dates described in this paragraph are the following:

''(A) April 1 of each year.

''(B) July 1 of each year.

''(C) September 1 of each year.

''(D) The date that is 60 days before the date estimated by the Secretary on which amounts appropriated for the purposes of this section for a fiscal year will be exhausted.

''(e) APPROPRIATE COMMITTEES OF CONGRESS DEFINED.—In this section, the term 'appropriate committees of Congress' means—

''(1) the Committee on Appropriations and the Committee on Veterans' Affairs of the Senate; and

''(2) the Committee on Appropriations and the Committee on Veterans' Affairs of the House of Representatives.''.

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item related to section 2307 the following new item:

''2307A. Death from service-connected disability: supplemental benefits for burial and funeral expenses.''.

(3) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Veterans Affairs such sums as may be necessary to carry out the provisions of section 2307A of title 38, United States Code (as added by this subsection).

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 2009, and shall apply with respect to deaths occurring on or after that date.

SEC. 502. SUPPLEMENTAL PLOT ALLOWANCES.

(a) IN GENERAL.—Chapter 23 is amended by inserting after section 2303 the following new section:

''§ 2303A. Supplemental plot allowance

''(a) IN GENERAL.—(1) Subject to the availability of funds specifically provided for purposes of this subsection in advance in an appropriations Act, whenever the Secretary makes a payment for the burial and funeral of a veteran under section 2303(a)(1)(A) of this title, or for the burial of a veteran under paragraph (1) or (2) of section 2303(b) of this title, the Secretary is also authorized and directed to pay the recipient of such payment a supplemental payment under this section for the cost of such burial and funeral or burial, as applicable.

''(2) No supplemental plot allowance payment shall be made under this subsection if the Secretary has expended all funds that were specifically provided for purposes of this subsection in an appropriations Act.

''(b) AMOUNT.—The amount of the supplemental payment required by subsection (a) for any death is $445 (as adjusted from time to time under subsection (c)).

''(c) ADJUSTMENT.—With respect to deaths that occur in any fiscal year after fiscal year 2010, the supplemental payment described in subsection (b) shall be equal to the sum of—

''(1) the supplemental payment in effect under subsection (b) for the preceding fiscal year (determined after application of this subsection), plus

''(2) the sum of the amount described in section 2303(a)(1)(A) of this title and the amount under paragraph (1), multiplied by the percentage by which—

''(A) the Consumer Price Index (all items, United States city average) for the 12-month period ending on the June 30 preceding the beginning of the fiscal year for which the increase is made, exceeds

''(B) such Consumer Price Index for the 12-month period preceding the 12-month period described in subparagraph (A).

''(d) ESTIMATES.—(1) From time to time, the Secretary shall make an estimate of—

''(A) the amount of funding that would be necessary to provide supplemental plot allowance payments under this section to all eligible recipients for the remainder of the fiscal year in which such an estimate is made; and

''(B) the amount that Congress would need to appropriate to provide all eligible recipients with supplemental plot allowance payments under this section in the next fiscal year.

''(2) On the dates described in paragraph (3), the Secretary shall submit to the appropriate committees of Congress the estimates described in paragraph (1).

''(3) The dates described in this paragraph are the following:

''(A) April 1 of each year.

''(B) July 1 of each year.

''(C) September 1 of each year.

''(D) The date that is 60 days before the date estimated by the Secretary on which amounts appropriated for the purposes of this section for a fiscal year will be exhausted.

''(e) APPROPRIATE COMMITTEES OF CONGRESS DEFINED.—In this section, the term 'appropriate committees of Congress' means—

''(1) the Committee on Appropriations and the Committee on Veterans' Affairs of the Senate; and

''(2) the Committee on Appropriations and the Committee on Veterans' Affairs of the House of Representatives.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item related to section 2303 the following new item:

''2303A. Supplemental plot allowance.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 2009, and shall apply with respect to deaths occurring on or after that date.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Veterans Affairs such sums as may be necessary to carry out the provisions of section 2303A of title 38, United States Code (as added by subsection (a)).

TITLE VI—OTHER MATTERS

SEC. 601. NATIONAL ACADEMIES REVIEW OF BEST TREATMENTS FOR GULF WAR ILLNESS.

(a) IN GENERAL.—The Secretary of Veterans Affairs shall enter into a contract with the Institute of Medicine of the National Academies to conduct a comprehensive review of the best treatments for Gulf War Illness.

(b) GROUP OF MEDICAL PROFESSIONALS.—In conducting the study required under subsection (a), the Institute of Medicine shall convene a group of medical professionals who are experienced in treating individuals diagnosed with Gulf War illness as follows:

(1) Members of the Armed Forces who served during the Persian Gulf War in the Southwest Asia theater of operations.

(2) Members of the Armed Forces who served in the Post 9/11 Global Operations theaters.

(c) REPORTS.—The contract required by subsection (a) shall require the Institute of Medicine to submit to the Secretary and to the appropriate committees of Congress a report on the review required under subsection (a) not later than December 31, 2011. The final report shall include such recommendations for legislative or administrative action as the Institute considers appropriate in light of the results of the review.

(d) FUNDING.—The Secretary shall provide the Institute of Medicine with such funds as are necessary to ensure the timely completion of the review required under subsection (a).

(e) DEFINITIONS.—In this section:

(1) APPROPRIATE COMMITTEES OF CONGRESS.—The term ''appropriate committees of Congress'' means—

(A) the Committee on Veterans' Affairs of the Senate; and

(B) the Committee on Veterans' Affairs of the House of Representatives.

(2) GULF WAR ILLNESS.—The term ''Gulf War Illness'' means a medically unexplained chronic multisymptom illness, such as chronic fatigue syndrome, fibromyalgia, and irritable bowel syndrome, that is defined by a cluster of signs or symptoms relating to service in the Persian Gulf War or Post 9/11 Global Operations theaters.

(3) PERSIAN GULF WAR.—The term ''Persian Gulf War'' has the meaning given that term in section 101(33) of title 38, United States Code.

(4) POST 9/11 GLOBAL OPERATIONS THEATERS.—The term ''Post 9/11 Global Operations theaters'' means Afghanistan, Iraq, or any other theater in which the Global War on Terrorism Expeditionary Medal is awarded for service.

SEC. 602. EXTENSION OF NATIONAL ACADEMY OF SCIENCES REVIEWS AND EVALUATIONS REGARDING ILLNESS AND SERVICE IN PERSIAN GULF WAR.

(a) REVIEW AND EVALUATION OF TOXIC DRUGS AND ILLNESSES ASSOCIATED WITH PERSIAN GULF WAR.—Section 1603(j) of the Persian Gulf War Veterans Act of 1998 (38 U.S.C. 1117 note) is amended by striking ''October 1, 2010'' and inserting ''October 1, 2015''.

(b) REVIEW AND EVALUATION OF AVAILABLE EVIDENCE REGARDING ILLNESS AND SERVICE IN PERSIAN GULF WAR.—

(1) IN GENERAL.—Section 101(j) of the Veterans Programs Enhancement Act of 1998 (Public Law 105–368; 112 Stat. 3321) is amended by striking ''11 years after'' and all that follows through ''under subsection (b)'' and inserting ''on October 1, 2018''.

(2) CONFORMING AMENDMENT.—Section 1604 of the Persian Gulf War Veterans Act of 1998 (Public Law 105–277; 38 U.S.C. 1117 note) is repealed.

SEC. 603. EXTENSION OF AUTHORITY FOR REGIONAL OFFICE IN REPUBLIC OF THE PHILIPPINES.

Section 315(b) is amended by striking ''December 31, 2009'' and inserting ''December 31, 2011''.

SEC. 604. AGGREGATE AMOUNT OF EDUCATIONAL ASSISTANCE AVAILABLE TO INDIVIDUALS WHO RECEIVE BOTH SURVIVORS' AND DEPENDENTS EDUCATIONAL ASSISTANCE AND OTHER VETERANS AND RELATED EDUCATIONAL ASSISTANCE.

(a) AGGREGATE AMOUNT AVAILABLE.—Section 3695 is amended—

(1) in subsection (a)(4), by striking ''35,''; and

(2) by adding at the end the following new subsection:

''(c) The aggregate period for which any person may receive assistance under chapter 35 of this title, on the one hand, and any of the provisions of law referred to in subsection (a), on the other hand, may not exceed 81 months (or the part-time equivalent thereof).''.

(b) APPLICABILITY.—The amendment made by subsection (a) shall take effect on October 1, 2010, and shall not operate to revive any entitlement to assistance under chapter 35 of title 38, United States Code, or the provisions of law referred to in section 3695(a) of such title, as in effect on the day before such date, that was terminated by reason of the operation of section 3695(a) of such title, as so in effect, before such date.

(c) REVIVAL OF ENTITLEMENT REDUCED BY PRIOR UTILIZATION OF CHAPTER 35 ASSISTANCE.—

(1) IN GENERAL.—Subject to paragraph (2), in the case of an individual whose period of entitlement to assistance under a provision of law referred to in section 3695(a) of title 38, United States Code (other than chapter 35 of such title), as in effect on September 30, 2010, was reduced under such section 3695(a), as so in effect, by reason of the utilization of entitlement to assistance under chapter 35 of such title before October 1, 2010, the period of entitlement to assistance of such individual under such provision shall be determined without regard to any entitlement so utilized by the individual under chapter 35 of such title.

(2) LIMITATION.—The maximum period of entitlement to assistance of an individual under paragraph (1) may not exceed 81 months.

SEC. 605. TECHNICAL CORRECTION.

Section 5503(c) is amended by striking ''veterans' '' and inserting ''veteran's''.

Mr. AKAKA. Mr. President, I am pleased that the Senate is acting on S. 728, the proposed ''Veterans' Benefits Enhancement Act of 2009.'' This broad benefits package will help veterans young and old, as well as their survivors. The amended bill contains 6 titles and 28 provisions that are designed to enhance compensation, housing, labor and education, burial, and insurance benefits for veterans. A full explanation of the bill is available in the Committee's report accompanying this legislation, Senate Report 111–71.

I will highlight a few of the provisions that I have sponsored in the legislation that is before us today. Before I begin, let me state that the version before us today includes a manager's amendment that makes a slight modification on the version passed by the Committee. The amendment's purpose is to pay for the bill's burial provisions by extending a mandatory offset currently in the underlying bill. The amendment would also eliminate two contingent entitlement provisions in the bill which are not paid for with mandatory funds. With this amendment incorporated, this bill would save, rather than cost, the American taxpayers.

Many disabled veterans find it difficult to obtain commercial life insurance, often due to their service-connected injuries. This legislation would improve the Service-Disabled Veterans' Insurance program for totally disabled veterans, by providing the first increase in the maximum amount of supplemental insurance they can purchase through SDVI since 1992. If enacted, the maximum amount would increase from the current level of $20,000 to $30,000 for all eligible totally disabled veterans.

This legislation would also increase the maximum amount of Veterans' Mortgage Life Insurance that a disabled veteran may purchase. The VMLI program was established in 1971 and is available to those service-connected disabled veterans who receive specially adapted housing grants from VA. In the event of the veteran's death, his or her family is protected because the Department of Veterans Affairs will pay the balance of the mortgage owed up to the maximum amount of insurance purchased.

In today's housing market where, according to the Federal Housing Finance Board, the average mortgage loan in the United States in May 2009 was $221,200, the current maximum of $90,000 in VMLI insurance protection is not adequate. This bill will increase the maximum amount of insurance that may be purchased under the VMLI program from the current maximum of $90,000 to $150,000 and then, on January 1, 2012, from $150,000 to $200,000.

This benefits package also includes a provision that will expand eligibility for retroactive benefits from traumatic injury protection coverage under the Servicemembers' Group Life Insurance program, commonly referred to as TSGLI. Section 1032 of Public Law 109–13, the Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Tsunami Relief, 2005, established traumatic injury protection under the SGLI program. TSGLI went into effect on December 1, 2005. Therefore, all insured servicemembers under SGLI from that point forward are also insured under TSGLI and their injuries are covered regardless of where they occur. In order to provide assistance to those servicemembers who suffered traumatic injuries on or between October 7, 2001, and November 30, 2005, retroactive TSGLI payments were authorized under section 1032(c) of the Supplemental Appropriations Act to individuals whose qualifying losses were sustained ''as a direct result of injuries incurred in Operation Enduring Freedom or Operation Iraqi Freedom.'' Under section 501(b) of Public Law 109–233, the Veterans' Housing Opportunity and Benefits Improvement Act of 2006, this definition was amended to allow retroactive payments to individuals whose qualifying losses were sustained ''as a direct result of a traumatic injury incurred in the theater of operations for Operation Enduring Freedom and Operation Iraqi Freedom.''

However, without corrective action, men and women who were traumatically injured on or between October 7, 2001, and November 30, 2005, but were not in the OIF or OEF theaters of operation, will continue to be denied the same retroactive payment given to their wounded comrades. This legislation would correct that inequity.

Importantly, this legislation will also relieve the burden on certain combat veterans who seek to prove that their disabilities are service-connected. The committee bill would direct VA to promulgate regulations that direct how VA should generally consider lay evidence that is consistent with the place, conditions, dangers, or hardships associated with a particular veteran's military service. For example, in assessing lay testimony concerning a claimant's exposure to sub-freezing conditions, the regulation may acknowledge that lay evidence, such as weather reports or contemporaneous newspaper accounts of sub-freezing conditions, may provide corroboration of exposure to the cold when a servicemember was assigned to an area when sub-freezing conditions were present. Another example would be in a claim alleging hearing loss or tinnitus. Although an individual's service record might not include details of exposure to improvised explosive devices the individual may have been assigned to a particular unit at a particular location where lay evidence shows that the unit was repeatedly exposed to IEDs.

Currently, VA provides a special dependency and indemnity compensation payment to a surviving spouse with one or more children under the age of 18. However, these payments are not adjusted. This legislation would provide automatic cost-of-living adjustments for these payments.

For veterans whose injuries are so significant that employment is not an option, VA operates an independent living rehabilitation program to help them achieve a maximum level of independence in daily life. Unfortunately, under current law, the number of veterans who in any one year can enroll in these programs is capped at 2,600. While I have heard from VA that this enrollment cap does not present any problem for the effective conduct of the program, I remain concerned that the effect of the cap is to put downward pressure on VA's enrollment of eligible veterans in this very important program. This is of particular concern today, as veterans are returning from the current conflicts with disabilities that may require extensive periods of rehabilitation and assistance in order to achieve independence in their daily lives. This legislation would remove the 2,600 cap and allow all qualified veterans to enroll in VA's independent living program.

This legislation would provide many other benefits that I have not mentioned, such as improving the lives of veterans and troops with severe burn injuries and clarifying veteran and reservists' employment rights. I thank the members of the Veterans' Affairs

Committee and others in this Chamber who have worked hard to craft the many provisions in this bill.

I urge our colleagues to support this important legislation that would benefit many of this Nation's nearly 24 million veterans and their families.

Mr. BENNET. I ask unanimous consent the committee-reported substitute amendment be considered, that an Akaka amendment which is at the desk be agreed to, the committee-reported substitute, as amended, be agreed to, and the bill, as amended, be read a third time.

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

The amendment (No. 2654) was agreed to, as follows:

On page 39, line 10, strike ''September 30, 2014'' and insert ''April 30, 2016''.

On page 54, strike line 18 and all that follows through page 61, line 6.

On page 61, strike line 7 and all that follows through page 64, line 16, and insert the following:

SEC. 501. INCREASE IN CERTAIN BURIAL AND FUNERAL BENEFITS AND PLOT ALLOWANCES FOR VETERANS.

(a) INCREASE IN BURIAL AND FUNERAL EXPENSES FOR DEATHS IN DEPARTMENT FACILITIES.—Section 2303(a)(1)(A) is amended by striking ''$300'' and inserting ''$745 (as increased from time to time under subsection (c))''.

(b) INCREASE IN AMOUNT OF PLOT ALLOWANCES.—Section 2303(b) is amended by striking ''$300'' each place it appears and inserting ''$745 (as increased from time to time under subsection (c))''.

(c) ANNUAL ADJUSTMENT.—Section 2303 is amended by adding at the end the following new subsection:

''(c) With respect to any fiscal year, the Secretary shall provide a percentage increase (rounded to the nearest dollar) in the burial and funeral expenses under subsection (a) and in the plot allowance under subsection (b), equal to the percentage by which—

''(1) the Consumer Price Index (all items, United States city average) for the 12-month period ending on the June 30 preceding the beginning of the fiscal year for which the increase is made, exceeds

''(2) the Consumer Price Index for the 12-month period preceding the 12-month period described in paragraph (1).''.

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply with respect to deaths occurring on or after October 1, 2010.

(2) PROHIBITION ON COST-OF-LIVING ADJUSTMENT FOR FISCAL YEAR 2011.—No adjustments shall be made under section 2303(c) of title 38, United States Code, as added by subsection (c), for fiscal year 2011.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The bill (S. 728), as amended, was ordered to be engrossed for a third reading and was read the third time.

Mr. BENNET. I now ask unanimous consent that the Committee on Veterans' Affairs be discharged from further consideration of H.R. 1037 and the Senate proceed to its consideration; that all after the enacting clause be stricken and the text of S. 728, as amended, be inserted in lieu thereof; the bill, as amended, be read a third time and passed; the motions to reconsider be laid upon the table; that upon passage of H.R. 1037, S. 728 be returned to the calendar, all with no intervening action or debate.

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

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill (H.R. 1037), as amended, was read the third time and passed, as follows:

H.R. 1037

Resolved, That the bill from the House of Representatives (H.R. 1037) entitled ''An Act to direct the Secretary of Veterans Affairs to conduct a five-year pilot project to test the feasibility and advisability of expanding the scope of certain qualifying work-study activities under title 38, United States Code.'', do pass with the following amendment:

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Veterans' Benefits Enhancement Act of 2009''.

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

SEC. 2. REFERENCE TO TITLE 38, UNITED STATES CODE.

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

TITLE I—INSURANCE MATTERS

SEC. 101. INCREASE IN AMOUNT OF SUPPLEMENTAL INSURANCE FOR TOTALLY DISABLED VETERANS.

Section 1922A(a) is amended by striking ''$20,000'' and inserting ''$30,000''.

SEC. 102. ADJUSTMENT OF COVERAGE OF DEPENDENTS UNDER SERVICEMEMBERS' GROUP LIFE INSURANCE.

Clause (ii) of section 1968(a)(5)(B) is amended to read as follows:

''(ii)(I) in the case of a member of the Ready Reserve of a uniformed service who meets the qualifications set forth in subparagraph (B) or (C) of section 1965(5) of this title, 120 days after separation or release from such assignment; or

''(II) in the case of any other member of the uniformed services, 120 days after the date of the member's separation or release from the uniformed services; or''.

SEC. 103. EXPANSION OF INDIVIDUALS QUALIFYING FOR RETROACTIVE BENEFITS FROM TRAUMATIC INJURY PROTECTION COVERAGE UNDER SERVICEMEMBERS' GROUP LIFE INSURANCE.

(a) IN GENERAL.—Paragraph (1) of section 501(b) of the Veterans' Housing Opportunity and Benefits Improvement Act of 2006 (Public Law 109–233; 120 Stat. 414; 38 U.S.C. 1980A note) is amended by striking '', if, as determined by the Secretary concerned, that loss was a direct result of a traumatic injury incurred in the theater of operations for Operation Enduring Freedom or Operation Iraqi Freedom''.

(b) CONFORMING AMENDMENT.—The heading of such section is amended by striking ''IN OPERATION ENDURING FREEDOM AND OPERATION IRAQI FREEDOM''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 2010.

SEC. 104. CONSIDERATION OF LOSS OF DOMINANT HAND IN PRESCRIPTION OF SCHEDULE OF SEVERITY OF TRAUMATIC INJURY UNDER SERVICEMEMBERS' GROUP LIFE INSURANCE.

(a) IN GENERAL.—Section 1980A(d) is amended—

(1) by striking ''Payments under'' and inserting ''(1) Payments under''; and

(2) by adding at the end the following new paragraph:

''(2) As the Secretary considers appropriate, the schedule required by paragraph (1) may distinguish in specifying payments for qualifying losses between the severity of a qualifying loss of a dominant hand and a qualifying loss of a nondominant hand.''.

(b) PAYMENTS FOR QUALIFYING LOSSES INCURRED BEFORE DATE OF ENACTMENT.—

(1) IN GENERAL.—The Secretary of Veterans Affairs shall prescribe in regulations mechanisms for payments under section 1980A of title 38, United States Code, for qualifying losses incurred before the date of the enactment of this Act by reason of the requirements of paragraph (2) of subsection (d) of such section (as added by subsection (a)(2) of this section).

(2) QUALIFYING LOSS DEFINED.—In this subsection, the term ''qualifying loss'' means—

(A) a loss specified in the second sentence of subsection (b)(1) of section 1980A of title 38, United States Code; and

(B) any other loss specified by the Secretary of Veterans Affairs pursuant to the first sentence of that subsection.

SEC. 105. ENHANCEMENT OF VETERANS' MORTGAGE LIFE INSURANCE.

(a) IN GENERAL.—Section 2106(b) is amended by striking ''$90,000'' and inserting ''$150,000, or $200,000 after January 1, 2012,''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on October 1, 2010.

TITLE II—COMPENSATION AND PENSION MATTERS

SEC. 201. COST-OF-LIVING INCREASE FOR TEMPORARY DEPENDENCY AND INDEMNITY COMPENSATION PAYABLE FOR SURVIVING SPOUSES WITH DEPENDENT CHILDREN UNDER THE AGE OF 18.

Section 1311(f) is amended—

(1) in paragraph (1), by inserting ''(as increased from time to time under paragraph (4))'' after ''$250'';

(2) by redesignating paragraph (4) as paragraph (5); and

(3) by inserting after paragraph (3) the following new paragraph (4):

''(4) Whenever there is an increase in benefit amounts payable under title II of the Social Security Act (42 U.S.C. 401 et seq.) as a result of a determination made under section 215(i) of such Act (42 U.S.C. 415(i)), the Secretary shall, effective on the date of such increase in benefit amounts, increase the amount payable under paragraph (1), as such amount was in effect immediately prior to the date of such increase in benefit amounts, by the same percentage as the percentage by which such benefit amounts are increased. Any increase in a dollar amount under this paragraph shall be rounded down to the next lower whole dollar amount.''.

SEC. 202. ELIGIBILITY OF VETERANS 65 YEARS OF AGE OR OLDER FOR SERVICE PENSION FOR A PERIOD OF WAR.

(a) IN GENERAL.—Section 1513 is amended—

(1) in subsection (a), by striking ''by section 1521'' and all that follows and inserting ''by subsection (b), (c), (f)(1), (f)(5), or (g) of that section, as the case may be and as increased from time to time under section 5312 of this title.'';

(2) by redesignating subsection (b) as subsection (c); and

(3) by inserting after subsection (a) the following new subsection (b):

''(b) The conditions in subsections (h) and (i) of section 1521 of this title shall apply to determinations of income and maximum payments of pension for purposes of this section.''.

(b) APPLICABILITY.—The amendments made by this section shall apply with respect to any claim for pension filed on or after the date of the enactment of this Act.

SEC. 203. CLARIFICATION OF ADDITIONAL REQUIREMENTS FOR CONSIDERATION TO BE AFFORDED TIME, PLACE, AND CIRCUMSTANCES OF SERVICE IN DETERMINATIONS REGARDING SERVICE-CONNECTED DISABILITIES.

(a) IN GENERAL.—Subsection (a) of section 1154 is amended to read as follows:

''(a) The Secretary shall include in the regulations pertaining to service-connection of disabilities the following:

''(1) Provisions requiring that, in each case where a veteran is seeking service-connection for any disability, due consideration shall be given to the places, types, and circumstances of such veteran's service as shown by—

''(A) such veteran's service record;

''(B) the official history of each organization in which such veteran served;

''(C) such veteran's medical records; and

''(D) all pertinent medical and lay evidence.

''(2) Provisions generally recognizing circumstances in which lay evidence consistent with the place, conditions, dangers, or hardships associated with particular military service does not require confirmatory official documentary evidence in order to establish the occurrence of an event or exposure during active military, naval, or air service.

''(3) The provisions required by section 5 of the Veterans' Dioxin and Radiation Exposure Compensation Standards Act (Public Law 98–542; 98 Stat. 2727).''.

(b) REGULATIONS.—

(1) IN GENERAL.—Not later than 210 days after the date of the enactment of this Act, the Secretary of Veterans Affairs shall promulgate regulations to implement section 1154(a)(2) of title 38, United States Code, as added by subsection (a).

(2) INTERIM REGULATIONS.—In the case that the Secretary is unable to promulgate final regulations under paragraph (1) on or before the date that is 210 days after the date of the enactment of this Act, the Secretary shall promulgate interim regulations on or before such date to be in effect until such time as the Secretary promulgates final regulations.

SEC. 204. EXTENSION OF REDUCED PENSION FOR CERTAIN VETERANS COVERED BY MEDICAID PLANS FOR SERVICES FURNISHED BY NURSING FACILITIES.

Section 5503(d)(7) is amended by striking ''September 30, 2011'' and inserting ''April 30, 2016''.

SEC. 205. ENHANCEMENT OF DISABILITY COMPENSATION FOR CERTAIN DISABLED VETERANS WITH DIFFICULTIES USING PROSTHESES AND DISABLED VETERANS IN NEED OF REGULAR AID AND ATTENDANCE FOR RESIDUALS OF TRAUMATIC BRAIN INJURY.

(a) VETERANS SUFFERING ANATOMICAL LOSS OF HANDS, ARMS, OR LEGS.—Section 1114 is amended—

(1) in subsection (m)—

(A) by striking ''at a level, or with complications,'' and inserting ''with factors''; and

(B) by striking ''at levels, or with complications,'' and inserting ''with factors'';

(2) in subsection (n)—

(A) by striking ''at levels, or with complications,'' and inserting ''with factors'';

(B) by striking ''so near the hip as to'' and inserting ''with factors that''; and

(C) by striking ''so near the shoulder and hip as to'' and inserting ''with factors that''; and

(3) in subsection (o), by striking ''so near the shoulder as to'' and inserting ''with factors that''.

(b) VETERANS WITH SERVICE-CONNECTED DISABILITIES IN NEED OF REGULAR AID AND ATTENDANCE FOR RESIDUALS OF TRAUMATIC BRAIN INJURY.—

(1) IN GENERAL.—Such section is further amended—

(A) in subsection (p), by striking the semicolon at the end and inserting a period; and

(B) by adding at the end the following new subsection:

''(t) Subject to section 5503(c) of this title, if any veteran, as the result of service-connected disability, is in need of regular aid and attendance for the residuals of traumatic brain injury, is not eligible for compensation under subsection (r)(2), and in the absence of such regular aid and attendance would require hospitalization, nursing home care, or other residential institutional care, the veteran shall be paid, in addition to any other compensation under this section, a monthly aid and attendance allowance equal to the rate described in subsection (r)(2), which for purposes of section 1134 of this title shall be considered as additional compensation payable for disability. An allowance authorized under this subsection shall be paid in lieu of any allowance authorized by subsection (r)(1).''.

(2) CONFORMING AMENDMENT.—Section 5503(c) is amended by striking ''in section 1114(r)'' and inserting ''in subsection (r) or (t) of section 1114''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on August 31, 2010.

SEC. 206. COMMENCEMENT OF PERIOD OF PAYMENT OF ORIGINAL AWARDS OF COMPENSATION FOR VETERANS RETIRED OR SEPARATED FROM THE UNIFORMED SERVICES FOR CATASTROPHIC DISABILITY.

(a) COMMENCEMENT OF PERIOD OF PAYMENT.—Subsection (a) of section 5111 is amended—

(1) by inserting ''(1)'' after ''(a)'';

(2) in paragraph (1), as designated by paragraph (1) of this subsection, by striking ''in subsection (c) of this section'' and inserting ''in paragraph (2) of this subsection and subsection (c)''; and

(3) by adding at the end the following new paragraph:

''(2)(A) In the case of a veteran who is retired or separated from the active military, naval, or air service for a catastrophic disability or disabilities, payment of monetary benefits based on an award of compensation based on an original claim shall be made as of the date on which such award becomes effective as provided under section 5110 of this title or another applicable provision of law.

''(B) In this paragraph, the term 'catastrophic disability', with respect to a veteran, means a permanent, severely disabling injury, disorder, or disease that compromises the ability of the

veteran to carry out the activities of daily living to such a degree that the veteran requires personal or mechanical assistance to leave home or bed, or requires constant supervision to avoid physical harm to self or others.''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on the date of the enactment of this Act and shall apply with respect to awards of compensation based on original claims that become effective on or after that date.

(c) TECHNICAL CORRECTION REGARDING WAIVER OF RETIRED PAY.—Section 5305 is amended by striking ''section 1414'' and inserting ''sections 1212(d)(2) and 1414''.

SEC. 207. APPLICABILITY OF LIMITATION TO PENSION PAYABLE TO CERTAIN CHILDREN OF VETERANS OF A PERIOD OF WAR.

Section 5503(d)(5) is amended—

(1) by inserting ''(A)'' after ''(5)''; and

(2) by adding at the end the following new subparagraph:

''(B) The provisions of this subsection shall apply with respect to a child entitled to pension under section 1542 of this title in the same manner as they apply to a veteran having neither spouse nor child.''.

SEC. 208. PAYMENT OF DEPENDENCY AND INDEMNITY COMPENSATION TO SURVIVORS OF FORMER PRISONERS OF WAR WHO DIED ON OR BEFORE SEPTEMBER 30, 1999.

Section 1318(b)(3) is amended by striking ''who died after September 30, 1999,''.

TITLE III—READJUSTMENT AND RELATED BENEFIT MATTERS

SEC. 301. REPEAL OF LIMITATION ON NUMBER OF VETERANS ENROLLED IN PROGRAMS OF INDEPENDENT LIVING SERVICES AND ASSISTANCE.

(a) IN GENERAL.—Section 3120 is amended—

(1) by striking subsection (e); and

(2) by redesignating subsection (f) as subsection (e).

(b) CONFORMING AMENDMENT.—Subsection (a) of such section is amended by striking ''described in subsection (f)'' and inserting ''described in subsection (e)''.

SEC. 302. ELIGIBILITY OF DISABLED VETERANS AND MEMBERS OF THE ARMED FORCES WITH SEVERE BURN INJURIES FOR AUTOMOBILES AND ADAPTIVE EQUIPMENT.

(a) ELIGIBILITY.—Paragraph (1) of section 3901 is amended—

(1) in subparagraph (A)—

(A) in the matter preceding clause (i), by striking ''in subclause (i), (ii), or (iii) below'' and inserting ''in clause (i), (ii), (iii), or (iv) of this subparagraph''; and

(B) by adding at the end the following new clause:

''(iv) A severe burn injury (as determined pursuant to regulations prescribed by the Secretary).''; and

(2) in subparagraph (B), by striking ''subclause (i), (ii), or (iii) of clause (A) of this paragraph'' and inserting ''clause (i), (ii), (iii), or (iv) of subparagraph (A)''.

(b) STYLISTIC AMENDMENTS.—Such section is further amended—

(1) in the matter preceding paragraph (1), by striking ''chapter—'' and inserting ''chapter:'';

(2) in paragraph (1)—

(A) in the matter preceding subparagraph (A), by striking ''means—'' and inserting ''means the following:'';

(B) in subparagraph (A)—

(i) in the matter preceding clause (i), by striking ''any veteran'' and inserting ''Any veteran'';

(ii) in clauses (i) and (ii), by striking the semicolon at the end and inserting a period; and

(iii) in clause (iii), by striking ''; or'' and inserting a period; and

(C) in subparagraph (B), by striking ''any member'' and inserting ''Any member''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 2010.

SEC. 303. ENHANCEMENT OF AUTOMOBILE ASSISTANCE ALLOWANCE FOR VETERANS.

(a) INCREASE IN AMOUNT OF ALLOWANCE.—Subsection (a) of section 3902 is amended by striking ''$11,000'' and inserting ''$22,500 (as adjusted from time to time under subsection (e))''.

(b) ANNUAL ADJUSTMENT.—Such section is further amended by adding at the end the following new subsection:

''(e)(1) Effective on October 1 of each year (beginning in 2011), the Secretary shall increase the dollar amount in effect under subsection (a) to an amount equal to 80 percent of the average retail cost of new automobiles for the preceding calendar year.

''(2) The Secretary shall establish the method for determining the average retail cost of new automobiles for purposes of this subsection. The Secretary may use data developed in the private sector if the Secretary determines the data is appropriate for purposes of this subsection.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 2010.

SEC. 304. PAYMENT OF UNPAID BALANCES OF DEPARTMENT OF VETERANS AFFAIRS GUARANTEED LOANS.

Section 3732(a)(2) is amended—

(1) by striking ''Before suit'' and inserting ''(A) Before suit''; and

(2) by adding at the end the following new subparagraph:

''(B) In the event that a housing loan guaranteed under this chapter is modified under the authority provided under section 1322(b) of title 11, the Secretary may pay the holder of the obligation the unpaid balance of the obligation due as of the date of the filing of the petition under title 11 plus accrued interest, but only upon the assignment, transfer, and delivery to the Secretary (in a form and manner satisfactory to the Secretary) of all rights, interest, claims, evidence, and records with respect to the housing loan.''.

TITLE IV—EMPLOYMENT AND REEMPLOYMENT RIGHTS OF MEMBERS OF THE UNIFORMED SERVICES

SEC. 401. WAIVER OF SOVEREIGN IMMUNITY UNDER THE 11TH AMENDMENT WITH RESPECT TO ENFORCEMENT OF USERRA.

(a) IN GENERAL.—Section 4323 is amended—

(1) in subsection (b) by striking paragraph (2) and inserting the following new paragraph:

''(2) In the case of an action against a State (as an employer) by a person, the action may be brought in the appropriate district court of the United States or State court of competent jurisdiction.'';

(2) by redesignating subsection (i) as subsection (j); and

(3) by inserting after subsection (h) the following new subsection (i):

''(i) WAIVER OF STATE SOVEREIGN IMMUNITY.—(1) A State's receipt or use of Federal financial assistance for any program or activity of a State shall constitute a waiver of sovereign immunity, under the 11th amendment to the Constitution or otherwise, to a suit brought by—

''(A) a person who is or was an employee in that program or activity for the rights or benefits authorized the person by this chapter;

''(B) a person applying to be such an employee in that program or activity for the rights or benefits authorized the person by this chapter; or

''(C) a person seeking reemployment as an employee in that program or activity for the rights or benefits authorized the person by this chapter.

''(2) In this subsection, the term 'program or activity' has the meaning given that term in section 309 of the Age Discrimination Act of 1975 (42 U.S.C. 6107).''.

(b) APPLICATION.—The amendments made by subsection (a) shall apply to—

(1) any failure to comply with a provision of or any violation of chapter 43 of title 38, United States Code, that occurs before, on, or after the date of the enactment of this Act; and

(2) all actions or complaints filed under such chapter 43 that are commenced after the date of the enactment of this Act.

SEC. 402. CLARIFYING THE DEFINITION OF "SUCCESSOR IN INTEREST".

(a) IN GENERAL.—Section 4303(4) is amended by adding at the end the following new subparagraph:

''(D)(i) Whether the term 'successor in interest' applies with respect to an entity described in subparagraph (A) for purposes of clause (iv) of such subparagraph shall be determined on a case-by-case basis using a multi-factor test that considers the following factors:

''(I) Substantial continuity of business operations.

''(II) Use of the same or similar facilities.

''(III) Continuity of work force.

''(IV) Similarity of jobs and working conditions.

''(V) Similarity of supervisory personnel.

''(VI) Similarity of machinery, equipment, and production methods.

''(VII) Similarity of products or services.

''(ii) The entity's lack of notice or awareness of a potential or pending claim under this chapter at the time of a merger, acquisition, or other form of succession shall not be considered when applying the multi-factor test under clause (i).''.

(b) APPLICATION.—The amendment made by subsection (a) shall apply to—

(1) any failure to comply with a provision of or any violation of chapter 43 of title 38, United States Code, that occurs before, on, or after the date of the enactment of this Act; and

(2) all actions or complaints filed under such chapter 43 that are pending on or after the date of the enactment of this Act.

SEC. 403. CLARIFYING THAT USERRA PROHIBITS WAGE DISCRIMINATION AGAINST MEMBERS OF THE ARMED FORCES.

(a) IN GENERAL.—Section 4303(2) is amended by striking ''other than'' and inserting ''including''.

(b) APPLICATION.—The amendment made by subsection (a) shall apply to—

(1) any failure to comply with a provision of or any violation of chapter 43 of title 38, United States Code, that occurs before, on, or after the date of the enactment of this Act; and

(2) all actions or complaints filed under such chapter 43 that are pending on or after the date of the enactment of this Act.

SEC. 404. REQUIREMENT THAT FEDERAL AGENCIES PROVIDE NOTICE TO CONTRACTORS OF POTENTIAL USERRA OBLIGATIONS.

(a) CIVILIAN AGENCIES.—The Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.) is amended by adding at the end the following new section:

''SEC. 318. NOTICE TO CONTRACTORS OF POTENTIAL OBLIGATIONS RELATING TO EMPLOYMENT AND REEMPLOYMENT OF MEMBERS OF THE ARMED FORCES.

''Each contract for the procurement of property or services that is entered into by the head of an executive agency shall include a notice to the contractor that the contractor may have obligations under chapter 43 of title 38, United States Code.''.

(b) ARMED FORCES.—

(1) IN GENERAL.—Chapter 137 of title 10, United States Code, is amended by adding at the end the following new section:

''§ 2334. Notice to contractors of potential obligations relating to employment and reemployment of members of the armed forces

''Each contract for the procurement of property or services that is entered into by the head

of an executive agency shall include a notice to the contractor that the contractor may have obligations under chapter 43 of title 38.''.

(2) CLERICAL AMENDMENT.—The table of sections for such chapter is amended by adding at the end the following new item:

''2334. Notice to contractors of potential obligations relating to employment and reemployment of members of the armed forces.''.

SEC. 405. COMPTROLLER GENERAL OF THE UNITED STATES STUDY ON EFFECTIVENESS OF FEDERAL PROGRAMS OF EDUCATION AND OUTREACH ON EMPLOYER OBLIGATIONS UNDER USERRA.

(a) STUDY REQUIRED.—The Comptroller General of the United States shall conduct a study on the effectiveness of Federal programs of education and outreach on employer obligations under chapter 43 of title 38, United States Code.

(b) CONTENTS OF STUDY.—In carrying out the study required by subsection (a), the Comptroller General shall—

(1) assess current practices and procedures of Federal agencies for educating employers about their obligations under chapter 43 of title 38, United States Code;

(2) identify best practices for bringing the employment practices of small businesses into compliance with such chapter;

(3) determine whether the Employer Support for the Guard and Reserve, the Small Business Administration, or other agencies could collaborate to develop a program to educate employers regarding their obligations under such chapter; and

(4) determine the effect on recruitment and retention in the National Guard and Reserves of the failure of employers to meet their reemployment obligations under such chapter.

(c) REPORT TO CONGRESS.—Not later than June 30, 2010, the Comptroller General shall submit to Congress a report on the study conducted under subsection (a), including the following:

(1) The findings of the Comptroller General with respect to such study.

(2) The recommendations of the Comptroller General for the improvement of education and outreach for employers with respect to their obligations under chapter 43 of title 38, United States Code.

SEC. 406. TECHNICAL AMENDMENTS.

(a) AMENDMENT TO CONGRESSIONAL ACCOUNTABILITY ACT OF 1995.—Section 206(b) of the Congressional Accountability Act of 1995 (2 U.S.C. 1316(b)) is amended by striking ''under paragraphs (1), (2)(A), and (3) of section 4323(c) of title 38, United States Code'' and inserting ''under section 4323(d) of title 38, United States Code''.

(b) AMENDMENT TO SECTION 416 OF TITLE 3, UNITED STATES CODE.—Section 416(b) of title 3, United States Code, is amended by striking ''under paragraphs (1) and (2)(A) of section 4323(c) of title 38'' and inserting ''under section 4323(d) of title 38''.

(c) AMENDMENT TO SECTION 4324 OF TITLE 38, UNITED STATES CODE.—Section 4324(b)(4) of title 38, United States Code, is amended by inserting before the period the following: ''declining to initiate an action and represent the person before the Merit Systems Protection Board''.

TITLE V—BURIAL AND MEMORIAL MATTERS

SEC. 501. INCREASE IN CERTAIN BURIAL AND FUNERAL BENEFITS AND PLOT ALLOWANCES FOR VETERANS.

(a) INCREASE IN BURIAL AND FUNERAL EXPENSES FOR DEATHS IN DEPARTMENT FACILITIES.—Section 2303(a)(1)(A) is amended by striking ''$300'' and inserting ''$745 (as increased from time to time under subsection (c))''.

(b) INCREASE IN AMOUNT OF PLOT ALLOWANCES.—Section 2303(b) is amended by striking ''$300'' each place it appears and inserting ''$745 (as increased from time to time under subsection (c))''.

(c) ANNUAL ADJUSTMENT.—Section 2303 is amended by adding at the end the following new subsection:

''(c) With respect to any fiscal year, the Secretary shall provide a percentage increase (rounded to the nearest dollar) in the burial and funeral expenses under subsection (a) and in the plot allowance under subsection (b), equal to the percentage by which—

''(1) the Consumer Price Index (all items, United States city average) for the 12-month period ending on the June 30 preceding the beginning of the fiscal year for which the increase is made, exceeds

''(2) the Consumer Price Index for the 12-month period preceding the 12-month period described in paragraph (1).''.

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply with respect to deaths occurring on or after October 1, 2010.

(2) PROHIBITION ON COST-OF-LIVING ADJUSTMENT FOR FISCAL YEAR 2011.—No adjustments shall be made under section 2303(c) of title 38, United States Code, as added by subsection (c), for fiscal year 2011.

TITLE VI—OTHER MATTERS

SEC. 601. NATIONAL ACADEMIES REVIEW OF BEST TREATMENTS FOR GULF WAR ILLNESS.

(a) IN GENERAL.—The Secretary of Veterans Affairs shall enter into a contract with the Institute of Medicine of the National Academies to conduct a comprehensive review of the best treatments for Gulf War Illness.

(b) GROUP OF MEDICAL PROFESSIONALS.—In conducting the study required under subsection (a), the Institute of Medicine shall convene a group of medical professionals who are experienced in treating individuals diagnosed with Gulf War illness as follows:

(1) Members of the Armed Forces who served during the Persian Gulf War in the Southwest Asia theater of operations.

(2) Members of the Armed Forces who served in the Post 9/11 Global Operations theaters.

(c) REPORTS.—The contract required by subsection (a) shall require the Institute of Medicine to submit to the Secretary and to the appropriate committees of Congress a report on the review required under subsection (a) not later than December 31, 2011. The final report shall include such recommendations for legislative or administrative action as the Institute considers appropriate in light of the results of the review.

(d) FUNDING.—The Secretary shall provide the Institute of Medicine with such funds as are necessary to ensure the timely completion of the review required under subsection (a).

(e) DEFINITIONS.—In this section:

(1) APPROPRIATE COMMITTEES OF CONGRESS.—The term ''appropriate committees of Congress'' means—

(A) the Committee on Veterans' Affairs of the Senate; and

(B) the Committee on Veterans' Affairs of the House of Representatives.

(2) GULF WAR ILLNESS.—The term ''Gulf War Illness'' means a medically unexplained chronic multisymptom illness, such as chronic fatigue syndrome, fibromyalgia, and irritable bowel syndrome, that is defined by a cluster of signs or symptoms relating to service in the Persian Gulf War or Post 9/11 Global Operations theaters.

(3) PERSIAN GULF WAR.—The term ''Persian Gulf War'' has the meaning given that term in section 101(33) of title 38, United States Code.

(4) POST 9/11 GLOBAL OPERATIONS THEATERS.—The term ''Post 9/11 Global Operations theaters'' means Afghanistan, Iraq, or any other theater in which the Global War on Terrorism Expeditionary Medal is awarded for service.

SEC. 602. EXTENSION OF NATIONAL ACADEMY OF SCIENCES REVIEWS AND EVALUATIONS REGARDING ILLNESS AND SERVICE IN PERSIAN GULF WAR.

(a) REVIEW AND EVALUATION OF TOXIC DRUGS AND ILLNESSES ASSOCIATED WITH PERSIAN GULF WAR.—Section 1603(j) of the Persian Gulf War Veterans Act of 1998 (38 U.S.C. 1117 note) is amended by striking ''October 1, 2010'' and inserting ''October 1, 2015''.

(b) REVIEW AND EVALUATION OF AVAILABLE EVIDENCE REGARDING ILLNESS AND SERVICE IN PERSIAN GULF WAR.—

(1) IN GENERAL.—Section 101(j) of the Veterans Programs Enhancement Act of 1998 (Public Law 105–368; 112 Stat. 3321) is amended by striking ''11 years after'' and all that follows through ''under subsection (b)'' and inserting ''on October 1, 2018''.

(2) CONFORMING AMENDMENT.—Section 1604 of the Persian Gulf War Veterans Act of 1998 (Public Law 105–277; 38 U.S.C. 1117 note) is repealed.

SEC. 603. EXTENSION OF AUTHORITY FOR REGIONAL OFFICE IN REPUBLIC OF THE PHILIPPINES.

Section 315(b) is amended by striking ''December 31, 2009'' and inserting ''December 31, 2011''.

SEC. 604. AGGREGATE AMOUNT OF EDUCATIONAL ASSISTANCE AVAILABLE TO INDIVIDUALS WHO RECEIVE BOTH SURVIVORS' AND DEPENDENTS EDUCATIONAL ASSISTANCE AND OTHER VETERANS AND RELATED EDUCATIONAL ASSISTANCE.

(a) AGGREGATE AMOUNT AVAILABLE.—Section 3695 is amended—

(1) in subsection (a)(4), by striking ''35,''; and

(2) by adding at the end the following new subsection:

''(c) The aggregate period for which any person may receive assistance under chapter 35 of this title, on the one hand, and any of the provisions of law referred to in subsection (a), on the other hand, may not exceed 81 months (or the part-time equivalent thereof).''.

(b) APPLICABILITY.—The amendment made by subsection (a) shall take effect on October 1, 2010, and shall not operate to revive any entitlement to assistance under chapter 35 of title 38, United States Code, or the provisions of law referred to in section 3695(a) of such title, as in effect on the day before such date, that was terminated by reason of the operation of section 3695(a) of such title, as so in effect, before such date.

(c) REVIVAL OF ENTITLEMENT REDUCED BY PRIOR UTILIZATION OF CHAPTER 35 ASSISTANCE.—

(1) IN GENERAL.—Subject to paragraph (2), in the case of an individual whose period of entitlement to assistance under a provision of law referred to in section 3695(a) of title 38, United States Code (other than chapter 35 of such title), as in effect on September 30, 2010, was reduced under such section 3695(a), as so in effect, by reason of the utilization of entitlement to assistance under chapter 35 of such title before October 1, 2010, the period of entitlement to assistance of such individual under such provision shall be determined without regard to any entitlement so utilized by the individual under chapter 35 of such title.

(2) LIMITATION.—The maximum period of entitlement to assistance of an individual under paragraph (1) may not exceed 81 months.

SEC. 605. TECHNICAL CORRECTION.

Section 5503(c) is amended by striking ''veterans' '' and inserting ''veteran's''.

NATIONAL RUNAWAY PREVENTION MONTH

Mr. BENNET. Mr. President, I ask unanimous consent that the Senate now proceed to consideration of S. Res. 308, which was submitted earlier today.

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

The legislative clerk read as follows:

A resolution (S. Res. 308) recognizing and supporting the goals and ideals of National Runaway Prevention Month.

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

Mr. BENNET. I ask unanimous consent 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. 308) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 308

Whereas the number of runaway and homeless youth in the United States is staggering, with studies suggesting that between 1,600,000 and 2,800,000 youth live on the streets each year;

Whereas the problem of children who run away from home is widespread, as youth between 12 and 17 years of age are at a higher risk of homelessness than adults;

Whereas runaway youth are often expelled from their homes by their families, discharged by State custodial systems without adequate transition plans, separated from their parents by death and divorce, or physically, sexually, and emotionally abused at home;

Whereas runaway youth are often too poor to secure their own basic needs and are ineligible or unable to access adequate medical or mental health resources;

Whereas effective programs that provide support to runaway youth and assist them in remaining at home with their families can succeed through partnerships created among families, community-based human service agencies, law enforcement agencies, schools, faith-based organizations, and businesses;

Whereas preventing youth from running away from home and supporting youth in high-risk situations is a family, community, and national priority;

Whereas the future of the Nation is dependent on providing opportunities for youth to acquire the knowledge, skills, and abilities necessary to develop into safe, healthy, and productive adults;

Whereas the National Network for Youth and its members advocate on behalf of runaway and homeless youth and provide an array of community-based support to address their critical needs;

Whereas the National Runaway Switchboard provides crisis intervention and referrals to reconnect runaway youth with their families and link youth to local resources that provide positive alternatives to running away from home; and

Whereas during the month of November, the National Network for Youth and the National Runaway Switchboard are co-sponsoring National Runaway Prevention Month, in order to increase public awareness of the circumstances faced by youth in high-risk situations and to address the need to provide resources and support for safe, healthy, and productive alternatives for at-risk youth, their families, and their communities: Now, therefore, be it

Resolved, That the Senate recognizes and supports the goals and ideals of National Runaway Prevention Month.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. BENNET. Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider Calendar No. 458, the nomination of Paul Fishman to be U.S. attorney for New Jersey; that the nomination be confirmed and the motion to reconsider be laid upon the table; that no further motions be in order and any statements relating to the nomination be printed in the Record; that the President be immediately notified of the Senate's action, and the Senate resume legislative session.

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

The nomination considered and confirmed is as follows:

DEPARTMENT OF JUSTICE

Paul Joseph Fishman, of New Jersey, to be United States Attorney for the District of New Jersey for the term of four years.

LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will resume legislative session.

ORDERS FOR THURSDAY, OCTOBER 8, 2009

Mr. BENNET. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 9:30 a.m. tomorrow, Thursday, October 8; 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 proceed to a period of morning business for 1 hour, with Senators permitted to speak therein for up to 10 minutes each, with the time equally divided and controlled between the two leaders or their designees, with the Republicans controlling the first half and the majority controlling the final half; that following morning business, the Senate resume consideration of H.R. 2847, the Commerce-Justice-Science appropriations bill.

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

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. BENNET. If there is no further business to come before the Senate, I ask unanimous consent that it adjourn under the previous order.

There being no objection, the Senate, at 7:02 p.m., adjourned until Thursday, October 8, 2009, at 9:30 a.m.

NOMINATIONS

Executive nomination received by the Senate:

DEPARTMENT OF COMMERCE

PATRICK GALLAGHER, OF MARYLAND, TO BE DIRECTOR OF THE NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY, VICE WILLIAM ALAN JEFFREY.

CONFIRMATION

Executive nomination confirmed by the Senate, October 7, 2009:

DEPARTMENT OF JUSTICE

PAUL JOSEPH FISHMAN, OF NEW JERSEY, TO BE UNITED STATES ATTORNEY FOR THE DISTRICT OF NEW JERSEY FOR THE TERM OF FOUR YEARS.